

1935
9th Session
IV

REPORT IV
FIRST DISCUSSION

International Labour Conference

NINETEENTH SESSION
GENEVA, 1935

The Recruiting of Labour in Colonies and in Other Territories with Analogous Labour Conditions

Fourth Item on the Agenda



GENEVA
INTERNATIONAL LABOUR OFFICE

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REPORT IV

FIRST DISCUSSION

International Labour Conference

NINETEENTH SESSION
GENEVA, 1935

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INTRODUCTION

At its Sixty-fourth Session, on 23 October 1933, the Governing Body of the International Labour Office decided to place the following question on the Agenda of the Nineteenth Session of the International Labour Conference, to be held in 1935: "The recruiting of labour in colonies and in other territories with analogous labour conditions".

This is the second time that a question affecting Native labour has been brought before the International Labour Conference. The first question was that of forced or compulsory labour, which was discussed at the Twelfth and Fourteenth Sessions of the Conference in 1929 and 1930. The result of these discussions was the adoption in the latter year of the Convention concerning forced or compulsory labour and of the Recommendations concerning indirect compulsion to labour and the regulation of forced or compulsory labour. In these measures the Conference endeavoured to formulate rules and lay down principles, the application of which would have the effect of abolishing some forms of compulsion to labour, strictly regulating *other forms until such time as they could be abolished*, and of reducing the danger of undue pressure being brought to bear on Native populations to enter wage-earning employment. More precisely, the Conference sought by the Convention to abolish immediately all forced labour for private employers and to regulate, with a view to its abolition, compulsory labour for general or local public purposes; by the Recommendation concerning indirect compulsion to labour the Conference aimed at suggesting guiding principles for the economic and labour policies of colonial administrations by which indirect forms of compulsion might be avoided.

However, it was already realised in 1929 by the Committee appointed at the Twelfth Session of the Conference to discuss the question of forced labour that the problem of eliminating forms of compulsion in the employment of Native labour would not be finally disposed of by the proposed decisions on forced or compulsory labour alone. Some members of the Committee indeed desired to extend the scope of the item on the Agenda of the Conference to

include questions connected with long-term contracts. Finally, however, the Committee adopted, by 18 votes to nil, and the Conference endorsed by 64 votes to 21, the following resolution concerning compulsion to labour:

“The Committee, considering that even the suppression of forced labour will not abolish all forms of compulsion to labour of which workers can complain, and particularly in connection with long-term contracts,

“Requests the Conference to instruct the International Labour Office to undertake all necessary studies on all the other cases of compulsion to labour with a view to the question of their complete abolition being placed on the Agenda of one of the next Sessions of the International Labour Conference with the shortest possible delay.”

The question was again raised by the workers' representatives on the Forced Labour Committee of the 1930 Conference, but the proposal that a resolution on the study of long-term contracts should be adopted was withdrawn as the matter was covered by the resolution of the Twelfth Session quoted above. The workers' representatives, however, gave notice in the minority report of their intention to bring the proposal up again, and this intention was carried out at the Sixteenth Session of the Conference in 1932, when the following resolution was moved by Mr. Kupers, Netherlands Workers' Delegate, and passed unanimously by the Conference:

“The Sixteenth Session of the International Labour Conference;

“Having regard to the progress recently accomplished in certain territories, and particularly in the Netherlands East Indies, towards the abolition of long-term labour contracts, breaches of the terms of which involve criminal penalties; and

“Having regard to the desirability of securing the general application of this reform, and thus taking a further step in the direction of creating more humane conditions of labour for the classes of workers concerned;

“Re-affirms the Resolution by which the Twelfth Session of the Conference expressed the opinion ‘that even the suppression of forced labour will not abolish all forms of compulsion to labour of which workers can complain, and particularly in connection with long-term contracts’, and instructed the International Labour Office ‘to undertake all necessary studies on all the other cases of compulsion to labour with a view to the question of their complete abolition being placed on the Agenda of one of the next Sessions of the International Labour Conference with the shortest possible delay’; and

“Requests the Governing Body of the International Labour Office to consider the possibility of placing on the Agenda of a very early Session of the Conference the questions of the methods and conditions of recruiting labour and of the terms of long-term labour contracts, the breaking of which involves penal sanctions.”

Meanwhile, the questions mentioned in the last paragraph of this resolution, i.e. the methods and conditions of recruiting labour

and the terms of long-term contracts, the breaking of which involves penal sanctions, were being studied by the International Labour Office, with the advice and assistance of the Committee of Experts on Native Labour¹. The decision to appoint this Committee had been taken by the Governing Body in 1926, and, after consultation of the experts, the Governing Body had further decided that the Committee should be invited to study the problems connected with forced labour and long-term contract labour. The first three sessions of the Committee of Experts on Native Labour, held in 1927, 1928 and 1930 respectively, were mainly concerned

¹ The present membership of the Committee of Experts on Native Labour is as follows:

Mr. Albrecht GOHR, President of the *Comité spécial du Katanga*, Chairman of the first and second Temporary Commissions on Slavery and of the Advisory Committee of Experts on Slavery (Chairman of the first, second, fourth and fifth sessions of the Committee).

Dr. Jose d'ALMADA, Colonial Adviser to the Portuguese Ministry for Foreign Affairs, member of the Advisory Committee of Experts on Slavery.

Mr. Domingo de las BARGENAS, formerly of the Department for Morocco and the Colonies of the Spanish Ministry for Foreign Affairs.

Major Alphonse CAYEN, Director of the International Forestry and Mining Company of the Congo, Reporter-General of the Advisory Committee on Labour in the Belgian Congo.

Professor J. P. CHAMBERLAIN, Professor of Public Law at the University of Columbia, United States of America.

Major H. S. COOKE, O.B.E., formerly Director of Native Labour of the Union of South Africa.

Sir Selwyn FREMANTLE, C.S.I., C.I.E., formerly Member of the Council of the Lieutenant-Governor of the United Provinces and of the Viceroy's Legislative Council for the purposes of the Factories Bill (India), member of the Committee of Experts on Article 408.

Mr. Nobumi ITO, formerly Deputy-Director of the Japanese Office for the League of Nations in Paris, now Minister Plenipotentiary in Warsaw.

Mr. Camille LEJEUNE, member of the French Higher Colonial Council.

Right Hon. Lord LUGARD, P.C., G.C.M.G., C.B., D.S.O., formerly Governor-General of Nigeria, member of the Permanent Mandates Commission.

Madame MARZORATI, member of the Belgian Institute of Colonial Women.

Mr. Martial MERLIN, Honorary Governor-General, formerly Governor-General of French Equatorial Africa, French West Africa, Madagascar and Dependencies and French Indo-China, member of the Permanent Mandates Commission.

Mr. Lodovico POLLERA ORSUCCI, formerly Director in the Italian Ministry for the Colonies.

Mr. van REES, formerly Vice-President of the Council of the Netherlands Indies, Vice-Chairman of the Permanent Mandates Commission.

The following deputy-members have been appointed to sit in the absence of Lord Lugard, Mr. Merlin and Professor Chamberlain respectively:

Major G. St. J. ORDE BROWNE, O.B.E., formerly Labour Commissioner in the Mandated Territory of Tanganyika.

Mr. Théodore MARCHAND, Colonial Governor, formerly High Commissioner for the Cameroons under French Mandate, member of the Advisory Committee of Experts on Slavery.

Mr. Samuel REBER, American Legation, Berne.

with forced labour, with which, as stated above, the Conference dealt in 1929 and 1930. The fourth and fifth sessions of the Committee, held in 1932 and 1934, were more particularly devoted to the group of problems arising in connection with the recruiting of Native labour and its employment under long-term contracts.

At the issue of the 1932 session of the Committee of Experts on Native Labour, it appeared to the International Labour Office that the progress made by the Committee with the study of the problems involved by the recruiting of Native labour justified a proposal to the Governing Body to place this question on the Agenda of the 1935 Conference. The proposal was accordingly made at the meeting of the Governing Body in April 1933 at which the provisional selection of items for the Agenda of the Nineteenth Session of the Conference was undertaken; it was approved by the Governing Body and confirmed at its meeting of October 1933 when the Agenda was finally fixed.

Apart from the stage reached in the study by the Committee of Experts and the International Labour Office of the methods and conditions of recruiting Native labour, the Office was moved by a number of other considerations to propose the discussion by the Conference of recruiting questions in advance of those connected with Native contracts of employment. Not only was it felt that the whole series of questions that had been provisionally grouped under the heading "contract labour" was too complex and varied to be dealt with as one item on the Agenda of the Conference, but the study of these questions had shown the practical need for the separate treatment of recruiting questions. While recruited workers are in very many cases employed under long-term contracts, this practice is not invariable. Native workers are also recruited for employment under monthly or other short-term contracts, with or without penal sanctions, and the problems of recruiting may be similar whatever the terms of the contract. On the other hand, many workers who enter into long-term penal sanction contracts are not recruited in the sense in which the term "recruiting" is used in this Report. The separation of recruiting questions from those of long-term contracts appeared therefore to be essential in any decisions the Conference might take.

The study of the problems of recruiting had further shown that the danger of compulsion, the abolition of which had been uppermost in the minds of the movers of the resolutions quoted above, arises most frequently during the operations of recruiting. For this reason, the regulation of recruiting seemed to the Office to be

the question of most immediate importance in order to continue the work begun with the Convention concerning forced or compulsory labour. Moreover, it appeared to the Office that the solution of some of the more difficult questions connected with long-term contracts might be facilitated by the prior adoption by the Conference of international regulations in regard to recruiting.

Finally, the Office considered that the present state of the demand for Native labour made it particularly desirable to deal as early as possible with the problems of recruiting. At the present time less labour is being recruited than for many years past, partly because of the greatly decreased capacity of plantations and some classes of mines to employ labour, and partly because, in areas where the demand for labour is strong, the lack of other employment and the general increase of economic pressure is causing Natives to seek employment spontaneously. In the latter circumstances the result may well be that recruiting will permanently become a less important part of the machinery of engaging labour, since more of the workers will have formed the habit of seeking employment without the intervention of the recruiter. In the former set of circumstances, however, the problems of recruiting will for several reasons become particularly important in the event of an economic revival.

The decreased demand for labour during the depression has led in a number of territories to the partial dismantling of the machinery of recruiting, while at the same time the financial situation has led to retrenchment in the public administrative services. The partial cessation of recruiting of course provides far-seeing administrations with an opportunity of overhauling their recruiting systems, but there is a danger that in some cases the revival of the demand for labour may find the authorities unprepared. And this situation may be aggravated both by the fact that the populations from which the labour has been drawn in the past will have lost to some extent their recently-formed habits of accepting wage-earning employment, and by the absolute increase in the demand for labour due to the anticipated acceleration of colonial development. As an authoritative writer has recently stated, after referring to the restrictions of the economic crisis: "The needs of the world, however, remain as great as ever, and the economic exploitation of humanity's untouched assets must progress whatever the system of control. Temporary restriction and stagnation will render the return to activity an increased strain on the social fabric, and there would appear to be a genuine danger that industrial progress may outstrip administrative measures, with possible disastrous conse-

quences".¹ This observation of course applies to the whole of the problems connected with the employment of Native labour, but it has a particular application to recruiting, upon which the satisfaction of the demand for labour still depends in so many territories.

From the above account of the circumstances under which the question of the recruiting of Native labour has come to be placed on the Agenda of the Conference, it will appear that, while the primary purpose of the regulation of recruiting is to extend and reinforce the safeguards against compulsion to labour already adopted, the realisation of this purpose would not be the sole utility of a Convention on this question. One of the principal merits of such a Convention would be to draw attention to the methods of regulating the recruiting of Native labour which experience has shown most efficient and satisfactory from the point of view of those requiring labour.

The vital importance of efficiency in recruiting labour for the success of colonial development schemes has been amply illustrated by the history of some recent public works in colonial territories. If the increasing demand for Native labour, which seems inevitable when colonial development work is resumed, is to be satisfactorily met, it will be essential that the methods of obtaining labour, as well as those of its management and employment, should be the best that can be devised.

The first problems of recruiting which gave rise to international discussions were those of immigrant coolie labour. Various aspects of this question were examined, *inter alia*, at the 1895 session of the International Colonial Institute, and in 1897 the Institute considered the possibility of drafting an international convention to regulate the recruiting of Native labour for employment in the colonies of foreign Powers. Finally, however, it was held to be more practicable to draft model regulations concerning the use of imported labour in colonies, for the guidance of Governments obtaining such labour. A set of such model regulations was drafted in 1899, and contained a number of principles which the Committee of Experts on Native Labour has included in its recommendations in regard to recruited migrant workers.

After 1900, when the International Colonial Congress voted resolutions in favour of the recruiting of local labour or, if imported labour were required, the obtaining of such labour from other

¹ Major G. St. J. ORDE BROWNE, former Commissioner for Labour in the Mandated Territory of Tanganyika: *The African Labourer*, pp. 3-4.

colonial possessions of the same Power, the importance of the problems of recruiting labour within the territory of employment began to be realised. It was not, however, until 1912 that these questions were examined by the International Colonial Institute in connection with the regulation of Native labour contracts; at this meeting of the Institute the principle that colonial administrations should not act as recruiters for private undertakings was adopted. Again, in 1929, the Institute had on its agenda the question of Native labour in tropical colonies.

None of these discussions gave rise to general international agreements, and, if the International Labour Conference should adopt a Draft Convention on the regulation of recruiting, it will be the first general international instrument dealing with this question. There is, indeed, a reference to recruiting in the texts of the "B" Mandates which gives international recognition to the importance of safeguards; under the provision in question the Mandatory undertakes to "protect the Natives from abuse¹ and measures of fraud and force by the careful supervision of labour contracts and the recruiting of labour". Finally, it may be mentioned that the first Temporary Slavery Commission, which reported in 1925, made the following statement which has a bearing on recruiting:

"The Commission considers that forms of direct or indirect compulsion the primary object of which is to force Natives into private employment are abuses. The Commission considers also that indirect or 'moral' pressure, if exercised by officials to secure labour for private employment, may, in view of the authority of such officials over the minds of Natives, be in effect tantamount to compulsion and calls therefore for prudence on the part of the Administration."

The primary purpose of the present Report is to set out the law and practice in regard to the recruiting of Native labour in the territories in which this system of obtaining labour is found. Some general account of the nature and scope of the item on the Agenda is, however, required and this is given in Chapter I. In Chapter II a general survey is made of the situation in the principal territories where recourse is had to recruiting. Chapter III treats of the general control of recruiting and discusses the factors that influence the possibilities of recruiting. In Chapter IV will be found a summary of the law and practice regarding the agencies by which recruiting is effected. Chapter V describes the provisions in force for the licensing of recruiters. Chapter VI deals with the admini-

¹ The words "abuse and" appear only in the Mandates entrusted to Great Britain.

strative supervision of recruiting and the measures taken for the protection of recruited workers. The special questions which arise when workers are recruited in one territory for employment in a territory under another administration are discussed in Chapter VII. Chapter VIII treats of the replacement of recruiting. Mention is made in the course of these chapters of the recommendations of the Committee of Experts on Native Labour in regard to the various problems discussed, but for convenience of reference these recommendations are collected in Chapter IX. Finally, the Report contains a suggested list of points on which Governments should be consulted, and, in an Appendix, a list of the legislation mentioned in the Report.

CHAPTER I

NATURE AND SCOPE OF THE QUESTION ON THE AGENDA

§ 1. — General Nature of the Question

The obtaining of labour for agricultural, mining and other forms of industrial development in countries where the application of Western industrial methods is not the consequence of an evolution of the traditional economic system, but is superimposed thereon, presents problems widely different from those of the organisation of employment in the older industrial States.

In countries of the colonial type, in particular, the characteristic situation is that of the absence of a constituted wage-earning class or of the existence of such a class only in the early stages of formation. The indigenous inhabitants are occupied mainly in the processes of their traditional economy and are neither accustomed to wage-earning employment nor desirous of seeking it. Until, therefore, the stage is reached when a wage-earning class has been formed or sufficient numbers of the inhabitants have become accustomed to seeking spontaneously wage-earning employment as a subsidiary source of income, it has been found necessary to have recourse to various active methods of obtaining labour.

It would be outside the range of this Report to attempt to sketch the history of all the methods of obtaining labour that have been practised since European penetration of other continents began. Here it will suffice to recall that in the early period of European colonisation these methods often included the enslavement of the Native inhabitants or the purchase of immigrant slaves, and that until our own times such methods as legal or illegal forced labour, predial and debt servitude, "kidnapping", forced recruitment, and such forms of direct or indirect compulsion as may be involved by concessionary rights, alienation of land, restriction of liberty of movement and excessive taxation have been used. Many of these methods have, however, disappeared or are disappearing under the combined influences of the awakened

humanitarian conscience of civilised peoples and of enlightened self-interest, influences which have found partial international expression in the Slavery and Forced Labour Conventions. That further action is necessary in various directions to remove abuses connected with the obtaining of the labour of indigenous peoples is unquestionable, but this Report is concerned only with the regulation of the most usual of the active methods of obtaining labour now in use, namely, recruiting.

It follows from what has been said at the beginning of this section that the need for recourse to recruiting as a method of obtaining labour arises where there is no, or only an insufficient, spontaneous offer of labour. The principal problems involved may be roughly described as those of the control of the demand for labour and the regulation of the extent to which recruiting may safely be permitted without entailing the risk of undue pressure or endangering the existence and possibilities of development of the indigenous communities concerned, the choice of the agencies through which recruiting may be permitted and the regulation of such recruiting in order to safeguard the liberty of the recruited worker and to promote efficiency, and the protection of the worker from the time of recruitment until the commencement of employment.

But before examining further, for the purposes of this general chapter, the nature of these problems, it is desirable to consider in more detail what is meant by recruiting. In the next section, therefore, it is proposed to examine the definitions of recruiting given in colonial legislation and explain the general definition proposed by the Committee of Experts on Native Labour.

§ 2. — Definition of Recruiting

Many colonial legislations do not specifically define the term "recruiting", but leave its meaning to emerge from the tenor of the regulative provisions. In other cases, and especially in British colonial legislations, various definitions are given, but they are usually framed solely with the practical purpose of defining the processes regulated by the law. In spite of much verbal similarity the definitions thus vary substantially in view of the legislators' varying judgments of the processes which require regulating. Nevertheless, the examination of these definitions will serve to illustrate the meaning attached to the term recruiting in this Report.

The *Belgian Congo Decree* of 16 March 1922 defines a "recruiter" in section 31 as an agent of a future placing who induces or attempts to induce Natives to leave their homes in order to enter employment at a distance of more than 25 kilometres. In addition to this condition regarding the distance of the place of employment from the homes of the Natives, it is also provided that a person is a recruiter within the meaning of the law only if he does not definitely engage the workers immediately or sign a contract with them, and if he is engaged in supplying labour as a commercial enterprise.

In the *Union of South Africa* recruiting is defined under the Native Labour Regulation, 1911, as the procuring, engaging or supplying, or the undertaking or attempting to procure, engage or supply Natives for the purpose of employment in work of any kind within or outside the Union. Only, however, certain forms of recruiting as thus widely defined are regulated by the Act. Licences are required by persons exercising the calling or acting as a labour agent for other persons, or by employers recruiting for their own employment for mines or works or for service abroad. No licence is, however, required by an employer who engages Natives for employment in farming, agricultural, horticultural, irrigation, stevedoring or shipping operations, or in domestic service or in any shop or store, or who engages Natives at any compound of a Government labour bureau if authorised by the Director of Native Labour, or who employs not more than twenty Natives at any one time.

In *Basutoland* a labour agent is defined as any person who shall himself or through runners or messengers in his own name or otherwise procure or attempt to procure, seek for or engage, conduct, take charge of, supply or undertake to supply Natives to be employed in work or labour of any kind within or beyond the borders of the Territory. Excluded from the definition are runners or messengers employed by the labour agent and employers obtaining labour for their own employment and not employing more than twenty Natives. In *Bechuanaland* and *Swaziland* recruiting is limited to processes leading to the supply of labour outside the territories, the Swaziland definition providing that to recruit shall mean to procure, engage or supply or to undertake or attempt to procure, engage or supply Natives for the purposes of employment in work of any kind outside Swaziland.

In *Southern Rhodesia* the labour agent is any person pursuing these activities to obtain Natives for the purpose of being employed by any other person in work or labour of any kind within or outside Southern Rhodesia. In *Northern Rhodesia* the definition is substantially the same, with the addition that an employer obtaining Natives for work or labour of any kind without the Territory is also regarded as a labour agent.

In the East African Dependencies of *Kenya* and the *Mandated Territory of Tanganyika* the term "labour agent" means any person who shall procure or attempt to procure, seek for engagement, conduct, take charge of, supply or undertake to supply Natives to be employed in work of any kind, to the exclusion, however, of a person who does these acts for his own domestic or personal service or business exclusively. In *Uganda* the similar exception for an employer obtaining Natives for his own business takes into account the factor of distance, the term "labour agent" not applying to any person who himself or through his agents and messengers obtains labour for work on an estate of which he is owner or manager in the district in which the estate is situated.

In the *British West African Dependencies*, it is generally only acts leading to employment outside the territory concerned which are regulated. An exception is provided in the *Gold Coast* where, in addition to provision for the licensing of agents for foreign employment, a labour agent is defined as any person who shall procure or attempt to procure, seek for, or engage, conduct or take charge of labourers to be employed on work or labour of any kind on mines or works within the limits of the Administration.

In the *British West Indies*, again, it is only recruiting for certain foreign services which is regulated. The *Leeward Islands* definition of a recruiting agent as any person who engages any other person in the Colony to proceed to a notified place under a contract of service is also to be found in the *Bahamas, Grenada, Jamaica, Saint Lucia* and *Saint Vincent*.

In the British colonies of the *Pacific* area, on the other hand, recruiting as defined covers most forms of engagement and the laws in fact regulate most occasions when a Native is taken into European employment. In the *British Solomon Islands* a Native is deemed to be recruited when he is solicited and consents or he offers and his offer is accepted to engage for or to be employed in any form of service or to leave any place where he may then be with a view to or for the purpose of his being so engaged or employed.

In the *New Hebrides* a Native is deemed to be recruited when he is solicited and consents or he offers and his offer is accepted to engage for or to be employed in any form of service other than domestic service, or to leave any place where he may then be with a view to or for the purpose of his being so engaged or employed.

In the *Mandated Territory of New Guinea* and in *Papua* the definitions are substantially the same. The *New Guinea* definition adds that if in fact a Native works for or in the interest of a person, and that person accepts or takes the benefit of the work done by the Native, although there is no contract of service nor any agreement between the parties, either express or implied, the Native shall be deemed to be recruited. The *New Guinea* and *Papuan* laws, however, provide an exception from the definition based on the period and form of engagement. The *Papuan* law provides that the engagement of a Native for a period of less than three months and not under a contract of service shall not constitute the act of recruiting, provided such engagement is effected by the employer of the Native or a European overseer in his regular service.

As was noted above, these definitions have evidently been drafted with the practical purpose of defining the processes regulated by the legislation concerned, and their divergencies reflect the varying scope of each legislation and the conditions in different territories. In some cases, operations similar in nature are included in, or excluded from, the meaning of the terms "recruiting" or "recruiter", according as they are included in, or excluded from, the scope of the regulations; in other cases, the meaning of the terms is widened to include all the operations of engaging labour the conditions of employment of which are regulated by the law. But leaving aside such regional variations as the exclusion of the

obtaining of labour by the employer himself, the limitation to certain occupations or to employment outside the territory, the exclusion of operations affecting only a given number of workers or carried on within a given radius, and the inclusion, for the purposes of the regulation of conditions of work, of labour offered spontaneously, the above definitions, together with the substance of the national regulations concerning recruiting, make it possible to frame a general definition expressing the essential characteristics of recruiting operations.

These operations are essentially operations of an active nature undertaken with the object of obtaining or supplying the labour of persons, usually resident at a distance from the place of work and who are most frequently not regular wage earners, for wage-earning employment. Whether the recruiting is undertaken by the employer himself, by public authorities, by recruiting agents or by employers' organisations, the distinguishing characteristic is that the labour does not seek the employment but is sought by the recruiter and induced to agree to enter the employment by various methods of propaganda and persuasion. As will be seen from the summary of legislation and practice given in subsequent chapters, it is these operations that are the subject of the specifically recruiting regulations contained in the various colonial legislations, and which are the object of the present proposal for international measures.

The definition of recruiting suggested by the Committee of Experts on Native Labour as suitable for international adoption is based upon this conception of recruiting. It is in the following terms:

"In these principles the term 'recruiting' is used to mean any operation or operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services either at the place of employment or at a public emigration or employment office or at an office of an employers' organisation under public supervision."

It should be observed that this wording is not purely academic, but is designed to express as exactly as possible the operations for obtaining labour which it is proposed to regulate. In addition, therefore, to containing the central idea of recruiting operations as operations to obtain or supply the labour of persons who need to be induced to enter the employment, it also attempts to distinguish the recruiting operations, the regulation of which is suggested, from other methods of obtaining labour in connection with which the word "recruiting" is sometimes loosely employed.

Thus the definition implicitly distinguishes recruiting from the engagement of labour at the undertaking itself or through placing or emigration agencies. It is obvious that the work of public emigration or placing agencies may include recruiting operations as defined and such agencies would fall within the scope of the item on the Agenda; but where their operations begin with the spontaneous application of persons seeking employment, no question of recruiting arises and they would be outside the field of application of the suggested international regulations. The reference to offices of employers' organisations under public supervision was inserted by the Committee to make it clear that it was not suggested that employers' organisations which undertake through branch offices to facilitate the journey of persons seeking work to the centres of employment should be subject to the proposed regulations.

The Committee of Experts also took into account the limitations to the meaning of recruiting in national legislations which have been described above, and added the following paragraph to its definition of recruiting:

"It should, however, be open to the competent authorities to except from this definition such operations by an employer who does not employ more than a specified number of persons at any one time, such operations undertaken within a specified radius from the place of employment, and such operations by the manual workers employed by a given undertaking who are commissioned by their employer to obtain the labour of other workers for the same undertaking under the conditions hereinafter provided."

It follows from the wording of this proviso to the definition that the Committee of Experts suggest the regulation of all operations for obtaining labour covered by the definition, except that it should be optional to include or exclude such operations by an employer himself when he only employs a small number of workers, and such operations within a short distance from the undertaking; as the above summary of legislation shows, the numbers and distances for which examples exist are twenty workers and 25 kilometres respectively. The optional exception for the manual workers of an undertaking who may be permitted to obtain labour for the same undertaking when visiting their homes, and who are elsewhere referred to as worker-recruiters, was introduced by the Committee of Experts as a possible convenient method of excepting such recruiters from the general regulations proposed; in view of the special nature of this form of recruiting the Committee suggested a simplified form of regulations for this case.

The meaning of the term recruiting as used in this Report having

now been defined, it is proposed in the next section to consider briefly the nature of the problems of recruiting which will be treated at length in subsequent chapters.

§ 3. — The Problems of Recruiting

It was stated in the first section of this chapter that the characteristic situation in which the need for recruiting arises is that of the absence of a wage-earning population in sufficient numbers to supply the demand for labour, with the consequence that methods have to be adopted to induce members of populations mainly occupied in the processes of a pre-industrial economy to accept employment. In these circumstances, experience has shown that uncontrolled recruiting may seriously endanger the demographic structure, the well-being and the stability of the indigenous communities concerned. The necessity of controlling the demand for labour and of limiting and regulating the extent to which recruiting may be permitted, particularly in the case of sparsely-populated territories and of primitive peoples, is therefore being increasingly recognised by colonial administrations.

This question is fully treated in Chapter III. It will suffice here to point out that, while various considerations of colonial policy may be held to justify general measures for the control of recruiting, the objects of such control which the Committee of Experts on Native Labour had in view in framing its recommendations were more particularly the prevention of depopulation, shortage of food supplies and social disintegration. Recruiting is frequently for employment which involves the removal of the workers to places at a considerable distance from their homes for periods of some length, and without their families. The peoples concerned are largely self-sufficing closed communities. Unless, therefore, some limitation is placed on the number of men who may be recruited in a given social unit there is a danger of a shortage of births and insufficient food production. Social disintegration may also be accelerated by excessive recruiting. A considerable degree of social disintegration is an inevitable result of the contact of primitive peoples with European civilisation, but the possibilities of the healthy adaptation of these peoples to the new social and economic systems thrust upon them can be strengthened by attempting to avoid excessive disturbance of the existing social equilibrium.

After the problem of the general control of recruiting comes that of the selection of the agencies through which recruiting may be permitted. The methods of recruiting now in practice vary considerably with the type of territory concerned, the form of administration, and the stages of social evolution and of assimilation by Western industrial economy reached by the inhabitants. These methods are described in Chapter IV of this Report under the headings of recruiting by officials of the administration, Native authorities, professional recruiters, employers and their agents or organisations, and worker-recruiters. The order of this classification is based upon that adopted in the recommendations of the Committee of Experts on Native Labour; it does not necessarily correspond with the order of evolution of methods of recruiting in all territories, nor does it necessarily indicate an order of progression. Nevertheless, as will be seen from the detailed treatment of the subject of agents of recruiting, there has been a general tendency towards the abandonment of recruiting by Government servants except for Government employment, the abolition of professional recruiting, and the restricting of permission to recruit labour to employers and persons acting on their behalf, to organisations of employers and their agents, and to worker-recruiters.

Recruiting by Government servants, a method which might seem to offer the maximum guarantees for the protection of the liberty and well-being of the recruited worker, has in practice been found to be undesirable for a number of reasons, of which the most important is that it in many cases amounts to forced recruiting. In the particular conditions of colonial government, an intimation by an administrative officer that it is desired to recruit a given number of workers may be mistaken for an order by the populations concerned. It has therefore been held necessary, both in the interest of the liberty of the recruited worker and of sound administration, to confine the duties of administrative officers to the supervision of the operations of recruiting and to prohibit their active intervention in any form in the carrying out of such operations. This prohibition seems even more important in the case of Native authorities, whose power over the people under their charge is more direct than that of the European administrator and whose understanding of the standards of conduct required by sound administration may be too recently acquired to be profound.

Professional recruiting may be described as the equivalent in the sphere of recruiting of fee-charging profit-making employment

agencies, the abolition of which is provided for in the Draft Convention adopted at the 1933 Session of the International Labour Conference. In its more extreme forms, this method of recruiting may be a speculation in labour, which is recruited in the hope of finding a market and ceded to the employer who offers the highest capitation fees to the recruiter. More generally, however, the professional recruiter recruits such numbers of workers, at a definite charge per head, as may be ordered by specific employers. Although, as already stated, the tendency is towards the abolition or the supercession of all forms of professional recruiting, some expert opinion, especially when employers have not associated themselves for the purpose of organising the supply of labour, considers that such recruiting is indispensable and, in the form now most usual and subject to strict administrative supervision, the most advantageous method of recruiting both for employers and workers. On the other hand, the presence of the profit-making motive involves a constant danger of the use of abusive methods in inducing Natives to recruit, while the heavy capitation charges constitute a burden on the employer and are one of the principal reasons for the demand for penal sanctions against recruited workers who break contracts of employment.

These disadvantages of professional recruiting are not entirely absent from the method of recruiting by employers or organisations of employers. Except where the employer himself recruits the labour he requires, recruiting by employers or their organisations usually takes place through agents who may be salaried employees, but who may also be full- or part-time employees paid wholly or partly by capitation fees. Nevertheless, it would appear that, particularly in the case of the special recruiting organisations maintained by employers in some territories, the danger of recruiting by undue pressure or misrepresentation has to a great extent been met and could be further minimised without radical changes in the system, while this form of recruiting is efficient, relatively easy to supervise and gives considerable guarantees for the proper protection of the recruited workers.

A special form of recruiting, which has developed more particularly in Asia in areas where, owing to the density and poverty of the population and the existence of a tradition of wage-earning employment, recruiting is not a difficult process, is that of the recruiting by workers of an undertaking of other workers for the same undertaking. As already stated in the second section of this chapter, the Committee of Experts on Native Labour dealt

with this form of recruiting as an exception and suggested a simplified form of regulation. While this form of recruiting may be considered to be an advance towards the replacement of recruiting by other methods of obtaining labour, particularly where it is only an accessory to internal or external migratory movements, the doubt was expressed by members of the Committee of Experts acquainted with African conditions whether it would be suitable in the different circumstances of that continent.

The next question to be considered is that of the administrative supervision of recruiting operations. In Chapter V a description is given of the provisions of national legislations in regard to the licensing of recruiting agents, the method of supervision suggested for general adoption by the Committee of Experts. It will be observed that the various legislations differ considerably in the extent to which the requirement that the agents of recruiting should be licensed has been introduced. Licensing is, however, of capital importance for the effective administrative supervision of recruiting, and the Committee of Experts' proposals in this regard may be considered to be the pivot of their recommendations as far as the agents of recruiting are concerned.

The administrative and other measures prescribed by legislation for the protection of the recruited worker are summarised in Chapter VI. These measures deal with the administrative supervision of each act of recruiting in order to establish its regularity and the free consent of the recruited person, the delivery of certificates of engagement or memoranda of information regarding the conditions of the prospective employment, medical examination, advances of wages, and the conditions of the journey to the place of work.

A final question is that of the special provisions relating to the recruiting of workers for employment in another country, which are examined in Chapter VII. Particular attention is drawn to the cases in which recruiting in one territory for employment in another is subject to the provisions of agreements between the territories concerned. This practice is recommended for general adoption by the Committee of Experts on Native Labour, and is in accord with the policy of bilateral migration agreements suggested by the International Labour Office to the Migration Committee of the Governing Body. Other questions examined in Chapter VII are those of the special measures of administrative supervision, medical examination, and of protection during the journey which are necessary in the case of migrant workers.

§ 4. — Geographical Scope of the Question

The geographical range of the problems of recruiting covered by the question on the Agenda has already been indicated in the preceding pages by the description of the circumstances in which the need for recruiting has been found to arise. In general terms, the territories concerned have been referred to as "colonies" and "countries of the colonial type". A more exact appreciation of the geographical scope of the question may be obtained from the general survey given in Chapter II.

From this survey it will be seen that the question is one which mainly concerns such territories as those under "B" and "C" mandates and the colonies, protectorates and other possessions that are not fully self-governing referred to in Article 421 of the Treaty of Peace. It also concerns, however, those independent States and self-governing territories in which the conditions of the labour market and the type of labour employed are similar to those of dependencies.

This labour is commonly described as "Native" or "coloured" labour; but, while these terms are convenient and no attempt will be made to avoid the use of the expression "Native labour" in this Report, they were felt to be too inaccurate to be used in the wording of the item on the Agenda. The labour recruited by the method it is proposed to regulate is not necessarily indigenous to the territory in which it is employed, but is sometimes recruited in another territory, and the word "coloured" has in some territories a special significance. Moreover, no other adjective would seem to describe accurately all the labour that may be recruited by the methods here under discussion: the word "primitive" is often applied to traditional forms of labour within tribal society; "tropical" and "colonial" are too restrictive geographically and the latter term is sometimes also applied to European labour in colonies.

These considerations were taken into account in framing the wording of this item on the Agenda as "the recruiting of labour in colonies and in other territories with analogous labour conditions". By these words it has been sought to express as exactly as possible the scope of the question as being the regulation of the recruiting of labour by the methods here under discussion in dependencies and in other countries where the labour situation is such that the methods of regulation best adapted to colonial territories are also applicable.

CHAPTER II

GENERAL SURVEY OF THE SITUATION IN THE PRINCIPAL RECRUITING TERRITORIES

The purpose of the present Chapter is to give some idea, on the basis of available information, of the extent of labour demand and supply in the principal territories in which recruiting is resorted to as a means of obtaining labour, and to describe, where such a description seems pertinent to the objects of this report, the evolution of recruiting methods and the general characteristics of the systems now in operation.

The Chapter is thus intended to serve as a background to the detailed treatment of the various aspects of recruiting contained in subsequent chapters. Since it is not a survey of the extent of the employment of Native labour generally, no information is included in regard to territories in which there is little or no recruiting, although there may be considerable employment of Native labour and although there may exist legal provisions for the regulation of recruiting, which are summarised in the course of the report. The criterion for the inclusion of any territory is the existence of recruiting as an important factor in the labour supply, and the object is to illustrate by a short description of the particular circumstances of each such territory the extent and diversity of the problem before the Conference.

§ 1. — Belgium.

BELGIAN CONGO

(1) *Labour demand and supply and recruiting policy.* — According to the census taken at the end of 1930, the Native population numbered 8,803,422 inhabitants; including a population estimated at 781,514 not included in the census, the total population was 9,584,936. The number of industrial undertakings increased steadily in recent years up to 1930. The following figures give some idea of the increase in the volume of Native labour employed by European undertakings during the fifteen years prior to 1930: 1916, 45,702; 1922, 157,000; 1924, 278,104; 1930, 409,665.

The Belgian Government, perturbed by the reactions which the acceleration of economic development might have on the social condition of the Natives, appointed in 1924 a special Commission to study the problem of the labour supply in the Belgian Congo. In the first report of this Commission an effort was made to estimate the volume of labour required, taking into account not only the needs of employers but also the labour engaged in portorage, in the growing of food and economic crops, in the gathering of natural products, in the personal service of Europeans and in the service of the State, and the following figures were arrived at:

VOLUME OF LABOUR REQUIRED

	1925	1930
Congo-Kasai.	115,000	135,000
Equatorial Province.	104,000	120,000
Eastern Province.	125,000	150,000
Katanga.	72,500	95,000
Total	416,500	500,000

The figure of 416,500, representing the labour required in 1925, exceeded 15 per cent. of the estimated adult male population at that time. This fact gave some uneasiness to the Commission, which concluded, however, in its first report ¹ that taking the Colony as a whole the supply of labour was sufficient to meet the requirements of the existing undertakings up till 1930 and at the same time of the probable development of the Colony, but subject to certain conditions. These conditions were laid down in the report in the following terms:

" In order to be able to face the future with confidence, it is necessary (1) that the economic development of the Colony should be pursued prudently and in accordance with a programme drawn up for each region by the Government in collaboration with the undertakings concerned, and then strictly insisted upon; (2) that the burden of recruiting should be distributed uniformly and judiciously over the whole of the Colony; and (3) that the employers themselves should effect substantial economies in labour and make the necessary sacrifices for this purpose."

In brief, the problem of labour supply in the Colony seemed to reduce itself to a problem of organisation and control, in accordance with certain general principles which the report outlined as follows: (1) recruiting operations should be effectively supervised by the Government; (2) the Governor-General should decide the assistance

¹ *Rapport de la Commission pour l'étude du problème de la main-d'œuvre au Congo belge, 1924-1925.*

to be given by the provinces to one another; (3) each province should constitute a separate recruiting area, and encouragement should be given to the establishment of employment exchanges, in the form of private bodies supervised by the Government, through which all recruiting would be effected in their districts; (4) each district commissioner should carry through a detailed study of the territories under his control with a view to determining the degree of evolution of the people, the effort which might be expected of them without prejudice to their welfare, and the amount of each class of labour available.

The report of the Commission also laid down the proportion of workers which it thought might be withdrawn from tribal life and utilised for the needs of the European population without endangering the equilibrium of the Native communities. It arrived at the following percentages: (a) 5 per cent. of the able-bodied adult males might be withdrawn from the Native communities and even taken temporarily away from their districts; (b) a further quota of 5 per cent. of able-bodied adult males might be taken for local European undertakings, i.e. situated within a radius of about two days' march from the village, which would not involve breaking the contact between the workers and their families; (c) finally, a third quota of 15 per cent. of the able-bodied adult workers might be employed in the neighbourhood of the village on casual work for European undertakings which would not interrupt their family life (short-distance portorage, gathering of natural products, etc.).

The report of the Commission was submitted to the Government and the Administration began to follow out the policy laid down therein, but serious difficulties of application arose. During the next three years, the economic development of the Colony rapidly accelerated and the demand for labour continually increased. On 6 January 1928, therefore, the Minister for the Colonies considered that "the time had come to examine the extent to which the principles of policy laid down by the Commission had been translated into fact and to propose the necessary practical steps to ensure their full application". For this purpose he deemed it expedient to take further advice and accordingly a new Committee was set up under the chairmanship of the Prime Minister, who was himself the Minister for the Colonies.

The 1925 Commission's report had included a suggestion that the economic development of the Colony should be pursued in accordance with a programme drawn up for each region by the Government, in collaboration with the undertakings concerned.

This idea of economic zones was a new development in colonial economics. The Committee of 1928 set to work to clarify the idea and to define, zone by zone, the parts of territories which were already saturated and in which it seemed that the granting of new land or mining concessions ought to be suspended and recruiting prohibited.

The report of the Committee¹ then examined the question of recruiting itself, and on this subject it formulated the following principles: recruiting must take place on the basis of liberty, but the intervention of the Administration and active propaganda on its part is indispensable in order to induce the Natives to collaborate with Europeans. The practical proposals suggested by the report may be summed up as follows: only subordinate officials should intervene directly with a view to encouraging, by every straightforward and legal means, the recruiting of workers; superior officers should thus retain complete independence in order to enable them to discharge their function of guardians, and their personal activity should not go beyond general propaganda in favour of working; when on tour district officers could intervene more directly by indicating to the Natives certain firms particularly deserving of recommendation; they could be accompanied by recruiters and intervene to conciliate and advise, but they should never do the work of recruiters; the Native authorities could be associated in their activities.

A new turn seemed thus to be given to Government policy in regard to recruiting, and the functions of the representatives of the administration in connection with the recruiting of workers were clearly and precisely defined. It must, however, be observed that the report of the Committee of 1928 contemplated a period of transition as being necessary between the old system and the system which would be created by the putting into force of its suggestions, but it soon became evident that there were certain features of the problem of recruiting in the Congo upon which immediate action was necessary. Beginning with a protest by the heads of the Catholic missions against the excessive recruiting of Native workers, there was considerable public discussion of the question in Belgium, and in 1930 the Colonial Minister decided to send another Labour Commission to Africa to study on the spot, in collaboration with the "Native Protection Commission" which exists in the Congo, the methods of recruiting and the operation

¹ *Rapport du Comité consultatif de la main-d'œuvre*, 1928.

of the economic zones. This Commission went to the Congo at the end of 1930¹. On the return of the Commission from Africa, Major Cayen drew up a general report of which the following is a summary of the principal conclusions concerning recruiting:

I. As regards recruiting the Commission of 1925 was of opinion that, as a temporary measure and while respecting liberty of engagement, the Administration might be permitted to intervene so as to encourage recruiting in favour of those particular undertakings in which conditions were unexceptionable. The 1931 Commission was of opinion that this transitional period must be brought to an end. The rôle of the Administration should be limited to an energetic and continuous propaganda of a general character designed to augment the capacities of production and consumption of all the Native peoples. Where, however, backward tribes are concerned, the Administration might intervene temporarily in favour of satisfactory undertakings, but this intervention should take place only in pursuance of a reasoned Ordinance by the Governor of the province. In the case of populations which, on the contrary, are exceptionally advanced and which furnish spontaneously a considerable number of workers, the Governor of the Province might likewise, by a reasoned Ordinance, authorise recruiting beyond 10 per cent. and up to 20 per cent. of the total number of men.

II. The Commission of 1925 was of opinion that 5 per cent. of the able-bodied adult men might work at a distance and that a second quota of 5 per cent. might be recruited within a radius of 60 to 100 kilometres from their village of origin. According to the general report of the 1931 Commission, this differentiation was no longer required, a worker employed at 75 kilometres from his village for three years becoming much more detached from his tribal community than a Native working 500 kilometres away for one year. The work of the delegation resulted in an important modification in the calculation of the percentage of adult able-bodied men. The Commission considered that there was no point in trying to estimate the effect of earlier recruiting of labour upon the proportion of adult men in relation to the total population. On the contrary, the proportion between the sexes—100 men and boys to 103 women and girls—was so constant throughout the Colony that it could be taken as the basis of the calculation. If this proportion declined so as to show a deficit of men, it might be concluded that there had been either previous recruiting or else some social disturbance. The Commission was therefore of opinion that nine-tenths of the men ought to remain in the village.

Finally, the Commission recommended the continuance of the existing system of recruiting for employment at a long distance: preliminary medical examination, selection, vaccination, deverminisation, organising of rest houses with food supplies along the route of the workers, and periods of observation and acclimatisation as a preliminary to any work.

The proposals made by the 1931 Commission do not seem to have been followed by any particular legislative measures by the Admi-

¹ This Commission, over which Major Cayen presided, was composed of Colonel Bertrand, Governor Engels, Mr. Ryckmans, formerly Resident of Ruanda-Urundi, and Dr. Mottoule. These investigators each visited one of the provinces of the Congo, and presented a report on the results of his observations.

nistration. During the last three years, the intensification of the economic crisis in the Belgian Congo has very considerably modified the situation in regard to the labour supply. The total number of workers in the service of European undertakings declined from 409,665 at the end of 1930 to 337,374 at the end of 1931. During the course of the year 1931, 72,000 workers were discharged. In the case of the "Union Minière" alone, the number of Natives employed was reduced at the beginning of 1931 from 17,000 to 12,500, and 3,000 more workers were discharged during the course of the year 1931. The Katanga Native Labour Commission met in March 1933 at Elizabethville to examine the conclusions of the 1931 Commission and endorsed most of the conclusions of the Reporter. The President of the Katanga Commission, Governor Heenen, in his address to the Commission, observed that the situation differed considerably from that of a few years previously. The number of Native wage-earners had in fact fallen in relation to the year 1929 by 50 per cent. for the province as a whole and by 70 per cent. for the industrial region of the Upper Katanga.

Meanwhile, certain modifications of Government policy had taken place. In reply to an interpellation by Mr. Vandervelde in the House of Representatives on 14 June 1932, the Colonial Minister, Mr. Tschoffen, announced that an Ordinance would be issued prohibiting State officials from entering the service of private companies, and that district officers had been forbidden to accompany recruiters on their tours. A few days afterwards, on 13 July 1932, the Minister addressed to the Governor-General of the Congo instructions which dealt particularly with the recruiting of workers:

As regards recruiting, the rules safeguarding freedom of choice in the matter of working must be scrupulously respected.

Apart from energetic and continuous propaganda of a general character addressed to the Natives, so as to make them understand that it is to their interest to increase their capacities of production and consumption, any intervention by the Administration must be forbidden and the practice by which recruiters in the service of certain undertakings are accompanied on their recruiting journeys by an officer of the Administration can no longer be tolerated.

(2) *Methods and organisation of recruiting.* — The principle of freedom of choice governs the recruiting system in the Belgian Congo, both in the case of Natives and in that of recruiters.

The freedom of the Native must be respected by the recruiter, who must abstain from using any unfair devices. Under section 57 of the Decree of 16 March 1922, a penalty not exceeding six months'

penal servitude may be imposed on a recruiter who makes use of violence and threats, dishonest promises or fraudulent devices to induce Natives to recruit.

The provisions of the law concerning recruiters (in particular the obligation to take out a "labour permit", for which a fee is charged) are principally of a police character and are designed to enable the Administration to ensure that recruiters observe their undertakings with the recruited workers and take the necessary care of the recruits until they reach the place where the labour contract is to be concluded. Moreover, labour permits may only be granted to persons of satisfactory character. The freedom of the recruiter is ensured, if necessary, by penalties not exceeding six months' penal servitude and which may be imposed (1) on any person who resorts to threats, dishonest promises or fraudulent devices in order to oppose the recruitment or engagement of Natives, and (2) on any person who incites a worker already engaged wilfully to refuse to carry out the obligations which are imposed upon him by the Decree, by the agreement or by custom. The law regulates the position of the recruiter without regard to whether he is acting as a professional recruiter or on behalf of an employer; but, generally, the recruiter in the Belgian Congo acts on behalf of an employer.

The liberty which the law ensures for the operations of a recruiter has as its counter-part the provisions subjecting these operations to the supervision of the Administration, in order to prevent any possible abuses. This supervision takes two forms. In the first place, the Administration has the right to inspect every recruiting operation: section 4 of the Ordinance of 18 June 1930 stipulates that "before sending recruited persons to the place of employment, the person recruiting them shall bring them before the local authority to the area of which they belong. The said authority shall ascertain from them the correctness of the information contained in the document delivered to them, verify their identity and subject them if necessary to the formalities of registration, and shall then deliver to them a pass." The Decree of 16 March 1922 also requires the recruiters to furnish to the Administration at any time information regarding the whereabouts of recruited workers.

The second form of supervision is more general, and is designed to enable the Administration to safeguard the social life of the Natives against excessive recruiting. Section 44 authorises the Governor of the province, when the public interest so requires, to prohibit recruiting operations for a specified period and in specified districts, or to forbid the removal of recruited workers into other

districts. In case of urgency, the same power can be exercised by the district commissioners.

Finally, attention must be called to the important part played in the recruiting of Native workers by certain big organisations, viz. the Labour Office of Leopoldville and the employment exchanges of the Katanga and of Kasai. The Labour Office of Leopoldville is placed under the control of a director responsible to the Governor-General, and operates as a special service with its own budget. It was established principally in order to recruit and bring to the place of work the workers necessary for carrying out public works in the Lower and Middle Congo. The employment exchanges of the Katanga and Kasai are private associations, the principal object of which is to promote any undertaking which may facilitate the recruiting and employment of Native labour. They are under Government control.

§ 2.— Great Britain and Dominions

A. — TERRITORIES IN AFRICA

In British African territories and in the Union of South Africa, the chief centres to which recruited labour is attracted are the mining undertakings and the larger European-owned agricultural estates. A map shaded to show the position and importance of these centres would be deepest in colour in the Witwatersrand gold area, would clearly indicate the Natal coal mines and sugar estates and the new copper field of Northern Rhodesia, and there would be a general shade over Southern Rhodesia and East Africa. West Africa, in spite of gold and tin mining, and the Anglo-Egyptian Sudan would not be shaded at all; labour migration to and in the latter areas is considerable but organised recruiting is negligible or non-existent.

The areas from which labour is attracted are extensive. Basutoland, Bechuanaland, Swaziland, the Transkeian territories of the Cape Province, and the southern districts of Portuguese East Africa contribute to the Witwatersrand Native labour supply, for which there is now the additional possibility of more northerly sources in the Rhodesias. Southern Rhodesia imports labour from Northern Rhodesia, Nyasaland (non-recruited) and Portuguese East Africa. Northern Rhodesian labour has also been widely used in the Belgian Congo, while the movement to Southern Rhodesia still remains, and in addition the new copper mines of the territory attract labour

both indigenous and alien. Recruiting for service abroad is not permitted in Nyasaland, but Nyasaland Natives migrate for employment both to the north and to the south. European estates in the Mandated Territory of Tanganyika and Kenya draw labour from all but the most remote parts of their respective territories and Uganda labour is to be found in Kenya, while labour from the Ruanda sultanate of the Belgian Mandated Territory of Ruanda-Urundi has been used in Uganda.

UNION OF SOUTH AFRICA

(1) *Labour demand and supply.* — By its experience, the numbers employed and the degree of familiarity with employment reached by its Natives, the Union of South Africa is the most important Native labour area in the whole African continent, while South African law and practice in connection with recruiting and the general treatment of Native labour have greatly influenced measures in British African territories.

The estimated population of the Union in 1933 consisted of 1,889,500 Europeans and 6,479,700 non-Europeans. Of the non-European population 5,681,100 were classified as Bantu, 196,400 as Asiatics and 602,200 as mixed and other races. The Bantu thus formed 67.9 per cent. of the total population. At the time of the last general census in 1921 they numbered 67.8 per cent. of the total population and in 1911, 67.3 per cent.

Native labour in the Union is principally in demand for agriculture and gold-mining, and to a lesser extent for the Natal sugar plantations, coal mines, diamond mines and secondary industries.

On 31 August 1930, 475,909 Natives were classified as being in regular employment on European farms. They are generally subject to some loose labour tenancy agreement, by which they owe their landlord-employer 90 to 180 days' service a year and receive from him land and grazing facilities. A recent Act, the Native Service Contract Act 1932, has endeavoured to establish some measure of uniformity in these contracts.

The development of the gold industry has been the paramount feature in the economic history of South Africa during the past fifty years. The value of the gold produced in 1933 reached a record total of £68,710,000. The Natives for the most part are employed under contract and return to their kraals at the end of each period of service, where they subsist partly on their savings and partly on their land. On 31 January 1934, the mines employed

244,262 Natives, of whom 110,277 came from the Cape Province, 49,328 from Portuguese East Africa, 35,983 from Basutoland, 22,002 from the Transvaal, 11,778 from Natal, 6,179 from Swaziland, and the balance of 8,715 from other areas, including Bechuanaland, the Orange Free State and the Rhodesias.

The diamond resources in the Union are also considerable but the depression in the trade has led to drastic limitation in production. In 1932, the value of the diamonds produced amounted to £1,679,000. The average labour force consisted of 4,932 Europeans and 19,146 non-Europeans.

Cane sugar production in 1930 amounted to 2,797,888 tons, and the Natal sugar estates were stated by the Native Affairs Commission report for 1932-1933 to absorb 50,000 Native labourers annually.

Coal production in 1933 amounted to £2,733,000, the chief coal mines being in the Transvaal and Natal. The average labour force for the year totalled 1,354 Europeans and 22,200 non-Europeans.

In recent years a considerable impetus has been given to local manufactures. The number of factories in the Union increased from 3,998 in 1915-1916 to 7,730 in 1929-1930, and the value added by the process of manufacture in the same period from £18,119,000 to £55,787,000. In 1915-1916, 39,524 Europeans and 61,654 non-Europeans were employed; in 1929-1930 the figures were 91,024 Europeans and 127,561 non-Europeans. A large number of the non-Europeans are "coloured" (i.e. mixed) and not Native workers.

As regards the extent to which this labour demand involves the absence from their homes of Natives living in the Reserves (in which live about one-fifth of the Bantu population), a writer stated in 1930 that at the time of the 1921 census "a Transkei magistrate estimated that some 10 per cent. of the total population of his district is always absent at work, on the mines and elsewhere. Various other magistrates more than confirmed this impression. For Herschel, a well authenticated conclusion was that 75 per cent. of all adult males are away six months every year.¹" Mr. E. C. Thompson, District Superintendent in the Transkei of the Native Recruiting Corporation, informed the South African Native Economic Commission "that practically every available fit labourer enters upon a term of employment within a period of two years"².

¹ W. M. MacMILLAN, *Complex South Africa*.

² Union of South Africa. *Report of the Native Economic Commission, 1930-1932*, Addendum by Mr. Lucas, section 64.

The South African problem of labour supply and demand primarily affects the Rand gold mines, the immense operations of which constitute the dominating factor in the recruiting situation not only in the Union but also in Basutoland, Bechuanaland, Swaziland and Southern Mozambique, while its repercussions are felt throughout South East Africa as far north as Nyasaland.

(2) *Methods and organisation of recruiting.* — Two organisations have been established by the gold mining industry for the purpose of obtaining its Native labour: the Witwatersrand Native Labour Association (W.N.L.A.), which operates in Portuguese East Africa and the Native Recruiting Corporation (N.R.C.), which operates in British South Africa (i.e. the Union of South Africa and the Crown Protectorates).

The W.N.L.A. was established in 1901. Until 1913 the scope of its operations included the whole of Portuguese East Africa (excluding the area controlled by the *Companhia de Moçambique*) and British Central Africa. Eventually, however, the high mortality rate among tropical Natives on the mines led the Government to prohibit the employment of Natives from north of latitude 22°S., which prohibition has recently been 'experimentally withdrawn. At present the W.N.L.A. operates solely in Portuguese East Africa where its activities are governed by the terms of the Mozambique Convention of 1928, under which the W.N.L.A. is recognised by both the Portuguese and the Union Governments as the sole organisation for obtaining Portuguese Natives for the mines. A fuller account of the Mozambique Convention will be given in Chapter VII. For the present it is sufficient to say that the Convention is now under review between the two Governments, and that the Portuguese East African labour force is a decreasing but still important element in the Rand industry.

Within British South Africa recruiting conditions were greatly improved following the union of the four provinces. Till then each province controlled its own domestic affairs, so that the actions of labour agents throughout the country did not come under review of a central authority. The partial control of the provincial governments was ineffective. Misrepresentations by agents were rife and Natives were brought to the mines with a very imperfect knowledge of their obligations. The position was complicated by the fact that each group of the mining industry recruited its labour independently and rivalry with other industries and even between the individual groups was very keen and productive of abuses.

At one stage Natives from Pondoland were receiving advances in the form of cattle to an alleged value of as much as £50, and in many instances some or all of the cattle died while the labourers were at work.

The Act of Union of 1910 permitted the passing of a consolidating Act regarding labour, which took the form in 1911 of the Native Labour Regulation Act. Further legislation was passed in 1921 in the shape of the Native Advances Act, which provided stronger powers for controlling the advances which might be made to Natives undertaking to enter employment. The provincial masters and servants laws, however, still remain in force and govern the general conditions of contract employment.

The Native Labour Regulation Act follows generally the lines of the previous Transvaal legislation which, however, was considerably amplified and expanded. Some of the provisions of the Act apply to "Natives", a term held to include any member of the aboriginal races or tribes of Africa. The greater part of the Act, however, has reference to "Native labourers", who are defined as Natives "employed upon any mine or works or recruited under this Act or a prior law for labour upon any mines or works".

The definitions of mines and works are very wide. By the Mines and Works Act of 1911, works include any places where machinery is erected or used other than works owned or used by the Department of Railways and Harbours, and by the Native Labour Regulation Act, the term is declared to "have the same meaning as is assigned to the term in any law regulating mines, works, and machinery and shall in addition include any works owned or controlled by the Department of Railways and Harbours". Mines in the Native Labour Regulation Act have "the same meaning as is assigned to the term in any law regulating the supervision of mines, works and machinery". They are defined in the Mines and Works Act 1911 as including all excavations for the purpose of searching for or winning minerals, as well as the working of mineral deposits, whether abandoned or actually being worked, together with all buildings, premises, erections and appliances belonging or appertaining thereto for the purpose of prospecting for or winning metals, minerals or precious stones.

In regard to recruiting an important distinction is established in the Native Labour Regulation Act between labour districts and other parts of the Union. The Act provides that labour districts may be proclaimed by the Governor-General where large numbers

of Natives are employed either in mining, industry or other work. Section 13 (f) of the Act prohibits any recruiting operations in any labour district without the consent of the Director of Native Labour. Recruiting licences issued under the Act expressly stipulate that they are not available in labour districts.

Following the passage of the Native Labour Regulation Act, the N.R.C. was established by the gold mining industry for obtaining labour from the Union and the High Commission Territories of South Africa. The methods followed for obtaining labour fell into two classes: the engagement of Natives through licensed labour agents and the encouragement to Natives to proceed direct to the mines without passing through the recruiter. The first method was until comparatively recently practised chiefly by the appointment of traders in Native areas as labour agents, the traders being paid a capitation fee for each Native recruited by them. The trader labour agent still exists. In addition, however, the N.R.C. employs a number of whole-time European officials and Natives paid by fixed salaries.

In addition to the recruited Natives a large and increasing number proceed from Native territories direct to the mines without being recruited. These Natives are generally in need of funds to enable them to reach the Rand and the practice was for them to borrow money from traders or money-lenders in the Native territories at very high rates of interest. With a view to facilitating this flow of Native labour and preventing abuses resulting from the loans advanced to the Natives, the N.R.C. instituted in 1928 an Assisted Voluntary System. A Native desiring to proceed to the Rand may go to one of the Corporation's offices and, if found to be fit, he is sent forward to Johannesburg by the Corporation on undertaking to offer himself for work in the mines and to refund from his wages the cost of his transport. The Native utilising this system is placed in exactly the same position as if he borrowed money and proceeded to Johannesburg for mine work on his own account, with the important difference that no interest is charged by the Corporation on the moneys advanced by it and no security demanded. This system appears to have become firmly established in Native favour. During the N.R.C.'s financial year ending 30 June 1933, 80,099 Natives utilised this channel as compared with 47,772 during the previous period ¹.

¹ A short description of the operations of the organisations through which the Native labour employed by the Witwatersrand gold mines is obtained is

The N.L.C. is not the only recruiting organisation in the Union although it is by far the most important and its methods appear to be the most perfected. Figures supplied to the South African Native Economic Commission showed that eight recruiting organisations were at work employing 487 licensed labour agents, while the total number of labour agents licensed between 1 October 1930 and 30 September 1931 was 590. Some of these organisations were not associations of employers, but private profit-making concerns. The Commission reported that a comparison of the recruiting methods and results of the N.R.C. with those of the other private recruiting bodies led to the opinion that an effort should be made to organise the agencies for obtaining labour for industries other than mining into larger units, if possible of a co-operative nature. Where formed on such a basis and without a direct profit-making object, it should be possible to give them the monopoly of supplying labour to specified industries or areas. In any event the Commission strongly urged that provision should be made that private recruiting organisations should be licensed in the same way as individual agents. Full responsibility should be made to attach to the organisation itself, as well as to the individual recruiter for the occurrence of such abuses as the luring away of juveniles, to which the Commission drew attention.

The influence of South African law and practice in connection with the treatment of Native labour is reflected throughout the British African dependencies, where the employment of Natives by Europeans leads to the typical contract labour relationship. In East Africa, however, a different set of circumstances has caused departures from South African precedent, Northern Rhodesia being the territory where the two influences intermingle most clearly.

MANDATED TERRITORY OF SOUTH WEST AFRICA

The only separate territory administered by the Union of South Africa is the Mandated Territory of South West Africa, with a population of 242,290 Natives (1932) and 32,840 Europeans (1931).

The economic situation of South West Africa has been made difficult by the collapse of the diamond market and the closing down of the base metal mines. Diamond exports, which exceeded

given in a paper presented to the Third Empire Mining and Metallurgical Congress, South Africa, 1930, by Mr. Gemmill, General Manager of the Transvaal Chamber of Mines.

£1,500,000 in 1929, dwindled to zero by the end of 1932. In 1929, copper exports amounted to £703,111, and vanadium exports to £210,950, while in 1932 the respective figures were £42,358 and £42,170. Moreover, in the latter year the chief mines were closed " and with this it may be said that the mining industry in the Territory was suspended. . . . When it is considered that in normal times the mines generally employed in round figures about 10,000 Natives and a large number of Europeans, that they consumed large quantities of farm produce, and that they circulated approximately £1,500,000 annually, the crushing effect of their suspension can readily be appreciated " ¹. South West Africa has thus become, though perhaps only temporarily, an exclusively agricultural country.

With the collapse of the mining industry, it may be said that the recruiting problem has almost ceased to exist. In 1929, 7,257 South West African Natives, 1,894 Bechuanas and 394 Union Natives were recruited, of whom 8,455 were employed in mining operations and 1,090 in agriculture. In 1932, only 477 Natives were recruited, largely from local sources. In 1929, the mining labour demands were largely met from the northern district of Ovamboland, and particular precautions were needed with a view to the reduction of what had been an abnormally high death rate. In 1932, no Natives were recruited in Ovamboland. The total death rate on mines for the year was 16.29 per thousand, as compared with 42.16 in 1929 and 65.4 in 1924.

The principal Native labour legislation consists of the Masters and Servants Proclamation, 1920, covering all persons employed on manual labour and based on the South African provincial laws; and Proclamation No. 3 of 1917, making provision for the control and treatment of Natives employed on mines and other large works.

BASUTOLAND, BECHUANALAND AND SWAZILAND

Basutoland, Bechuanaland and Swaziland are administered by Great Britain through the Dominions* Office in London and a High Commissioner in South Africa.

Basutoland, which in 1921 had a European population of 1,603

¹ Union of South Africa. *Reports to the Council of the League of Nations concerning the Administration of South West Africa for the Year 1932*, p. 31.

and a Native population of 495,937, is exclusively an agricultural territory. Bechuanaland has a European population of 1,743, and a Native population of 150,185. Gold mining is carried on in one district, and may expand considerably. Swaziland, with a European population of 2,725 and a Native population of 121,670, possesses tin mines, and there are promising coal and asbestos deposits. The chief economic feature of all the territories, however, is that they are largely dependent on the Union of South Africa, while their principal export may be said to be the labour which is recruited for the Rand mines and South African industries and agriculture.

Since the labour recruited in the territories is almost entirely employed in the Union, it might be treated as migrant labour. Such a classification, however, would take no account of other than the constitutional position. The territories do not appear to make the export of their labour conditional on terms which might be appropriate if the territories were regarded as economic entities; recruiting law and practice for employment in the Union is similar to that existing in the Union for employment therein; the Union Native Recruiting Corporation operates in the territories; and, in short, a Native recruited from them passes through similar formalities and is engaged under similar conditions to a Native recruited, for example, in the Cape Province.

In Swaziland, the number of adult males is approximately 26,000. The annual average number recruited for the gold mines over a period of five years ending 1930 was 4,580, and an annual average of 700 proceeded to the mines without being recruited. In addition, an average of 1,598 were employed by other industrial employers in the Transvaal and at least 3,500 on farm work within the Union of South Africa, on the coal mines of Natal and in various other employments. This indicates that over 10,000 Swazis on an average leave the territory annually for employment¹.

In Bechuanaland the adult male population is between 35,000-40,000. The average number of Bechuanas employed on the gold mines rose from 1,800 in 1927 to 4,300 in 1932. Between 1927 and 1931, some 5,000 Bechuanas worked on the diamond mines. Between 1928 and 1932, excluding passes for the gold and diamond mines, 13,624 passes were issued. This would make up an annual controlled immigration in the neighbourhood of 7,000. Sir Alan Pim

¹ Dominions Office. *Financial and Economic Situation of Swaziland*—Report of the Commission appointed by the Secretary of State for Dominion Affairs, Jan. 1932 (Cmd. 4114).

considers, however, that considerable numbers manage to leave without passes ¹.

In Basutoland the number of adult males is probably in the region of 120,000. According to the official report for 1933, 51,856 labour passes were issued during the year, of which 25,803 were for the gold mines and 15,237 for agriculture. In addition, 57,651 visiting passes were issued. On 30 April 1933, according to a statement of the South African Minister for Mines, 31,338 Basutos were in employment on the Rand mines.

On the basis of the above somewhat inconclusive figures, it would appear that the annual labour exodus from Swaziland affects over 10,000 out of the adult male population of 26,000; from Bechuanaland considerably over 7,000 out of an adult male population of 35,000-40,000; and from Basutoland over 60,000 out of an adult male population of 120,000.

SOUTHERN RHODESIA

The self-governing Colony of Southern Rhodesia in 1931 had a European population of 49,910 and an estimated Native population of 1,055,000.

In 1930 the estimated value of the gross output of the European agricultural and livestock industry was £2,970,000, and of Native crops £930,000. The total value of the mineral output in the same year was £4,518,000, consisting of £2,316,000 gold, £1,070,000 asbestos, £519,000 chrome, £476,000 coal, and lesser values of copper, mica and silver. By 1933, gold production increased to the record figure of £4,014,034.

The bulk of the Native population is to be found in the reserves or on unalienated land. In 1930, however, 185,312 were considered to be permanently settled on European farms, and 11,318 as urbanised. In May 1931, a census of Natives in employment showed a total of 179,092 males and 1,066 females; agriculture employed 67,681, the mining industries 38,463, domestic service 25,310, and communication services 17,147.

Taking the year 1931 as a whole, 60,074 Southern Rhodesian and 68,986 alien Natives were on an average in other than mining employment, and 8,305 Southern Rhodesian and 26,897 alien Natives in mining employment. Of the alien Natives employed in

¹ Dominions Office. *Financial and Economic Position of the Bechuanaland Protectorate—Report of the Commission appointed by the Secretary of State for Dominion Affairs, March 1933* (Cmd. 4368).

mining, 13,555 came from Nyasaland, 9,611 from Northern Rhodesia, and 3,060 from Portuguese East Africa. The mining labour figures have increased considerably with the expansion of the gold mining industry. In 1933, 42,452 Natives were in gold-mining employment and 1,912 Europeans. In the same period the base mineral mines employed 265 Europeans and 5,817 Natives.

In parts of Southern Rhodesia before the depression there appear to have been excessive demands for labour. The Native Commissioner for Ndanga estimated in 1929 that fully 80 per cent. of the able-bodied men in his district were absent for an average period of nine months in the year "reducing to a minimum the number of those remaining for the essential purpose of maintaining the life of the kraal".¹

An important part in Southern Rhodesian industry is played by immigrant Native labour. Such labour was originally obtained by recruiting associations under the Rhodesian Chamber of Mines, and since 1912 by the Rhodesian Native Labour Bureau. In May 1933, however, the Bureau decided to go into liquidation as a result of the decline in the number of Natives entering the Colony from abroad through recruiting channels.

Native labour legislation in Southern Rhodesia is founded on earlier South African law, to which it retains much resemblance, while the practice, owing to the similarity of economic conditions and industrial organisation, will be found also to be South African in the broad sense of the term.

NORTHERN RHODESIA

(1) *Labour demand and supply.* — The estimated Native population of the Protectorate of Northern Rhodesia in December 1932 was 1,382,705. Census figures for Europeans gave a total of 3,634 in 1921 and 13,846 in 1931, but it was estimated that at the end of 1932 the numbers had dropped to 10,553.

Till recently, Northern Rhodesia was primarily an agricultural country. Native crop production is confined almost exclusively to the supplying of the producers' needs, and no Native produce is exported. At the 1931 census, 544 adult male Europeans were engaged in agriculture. European crop production is confined mainly to the supply of the internal market and to a lesser extent of that of the Katanga Province of the Belgian Congo.

¹ Southern Rhodesia. *Report of the Chief Native Commissioner for 1929.*

The feature of recent years, however, has been the mining expansion. "The Northern Rhodesian Copper Belt is probably the most wonderful potential source of copper in the world, and the fringe of its development has as yet only been touched."¹ Developments on a large scale only began in 1923. In 1930, 6,000 tons of copper were produced; in 1931, 9,000; and in 1932, 68,000. The year 1932 marked a pause in expansion, which, however, appears to have been resumed to some extent since. Besides copper, vanadium and zinc are the most important minerals mined.

The development of the copper belt has not only profoundly influenced the Native labour market, but has also brought far-reaching changes to the economic and social structure of Native life. It may perhaps be maintained that the 1932 pause, imposed by marketing considerations, was of the utmost value to Northern Rhodesia as a whole, if only as a result of it the revolutionary pace of changing circumstances has temporarily been slackened. The 1932 Report upon Native Affairs recording the decline in employment states that "where in the past it was a common experience to find 40 or 50 per cent. of the adult males absent from the villages at work at one time, the average now does not exceed 15 to 20 per cent. and is often as low as 10 per cent. or less."

The total number of Natives employed on all mines and mineral concessions rose from 8,592 in January 1927 to 31,941 in September 1930, and, after falling to 6,667 by December 1932, rose to 12,361 in December 1933. In 1930, development and construction work was being undertaken by a number of mines, and labour was partly employed upon buildings, roads, the installation of machinery, and other tasks of a non-recurring kind. It has been estimated that, should copper production reach a normal annual output of 24,000 tons, a labour force of 16,500 men will be required for all mines².

The labour required would not necessarily be supplied exclusively from Northern Rhodesia. Of 6,553 Natives recruited in 1931, 1,487 came from Nyasaland and 865 from Angola, Portuguese East Africa, Southern Rhodesia, and the Mandated Territory of Tanganyika. The foreign element, however, is not likely to be large. Nyasaland does not permit recruiting for employment

¹ Department of Overseas Trade. *Report on Trade and Economic Conditions in Southern Rhodesia, Northern Rhodesia and Nyasaland*, 1933, p. 39.

² *Modern Industry and the African*, 1933, p. 152.

abroad, and if the gold mines continue to prosper, Southern Rhodesian Natives will probably be absorbed within that Colony, or attracted South to the Rand. On the other hand, Northern Rhodesian Natives have themselves been accustomed to seek work abroad. In 1929, it was estimated that 42,450 Northern Rhodesians were working outside the Territory, and even in 1933 the estimated figure was 24,293.

These figures relating to Northern Rhodesian Natives working abroad cover all forms of employment. Those so far given in connection with employment within the Territory have been confined to mining employment. In addition, account must be taken of the fact that within Northern Rhodesia large numbers of Natives are employed away from their homes in other occupations. In 1930, for example, 48,639 Natives were estimated to be employed in other than mining occupations, of whom 10,883 were engaged in agriculture, 6,808 on the railways, and 12,470 in domestic service.

(2) *Methods and organisation of recruiting.* — The organisation of recruiting in Northern Rhodesia owes much to South African practice. Till recently, two organisations were at work; the Rhodesian Native Labour Bureau organised recruiting operations and made travelling arrangements in Northern Rhodesia for employers in Southern Rhodesia, while the Northern Rhodesian mining companies in 1930 formed the Native Labour Association for the purpose of supplying their own needs. These organisations have performed valuable services in preventing competition between recruiters, in familiarising the Natives with European employment, and in organising transport. Their very success, however, coupled with the decline in the demand for Native labour, has lessened their present utility. As already mentioned, the Rhodesian Native Labour Bureau has decided to go into liquidation. The Native Labour Association, which recruited 10,500 Natives between the commencement of operations in April 1930 and the end of the year, only recruited 6,086 in the whole of 1931, and then suspended active recruiting operations. According to the Government report on Native affairs for 1932, the recruiting agent is regarded as having outlived his usefulness, in that Natives no longer require to be induced to go out to work, and do not care to make contracts for long periods. In this regard it is of interest to note that the average duration of employment of the non-recruited worker engaged on a monthly basis is nine to ten months as compared with the six months contract of the recruit.

Unlike policy in South Africa, the mining companies appear to encourage the stabilisation of their labour force by making provision for the wives and families of married workers. On the Roan Antelope Mine on 31 December 1932, out of 2,344 workers, 45 per cent.¹ had their women and children with them, and to permanent workers grants were made of lands for growing of vegetables and other foodstuffs. The average duration for the employment of married men was 20.25 months and for single men 9.79 months. At Nkana the average stay for married men was 12.09 months and for single men 8.6 months.

Labour legislation was consolidated and extended by the Employment of Natives Ordinance, 1929, and the Employment of Natives Regulations, 1931. The resulting legal measures of protection are perhaps the most far-reaching in British African Dependencies. In many respects they appear to be based on Southern Rhodesian law, and thus to originate in South Africa. On the other hand, the general Native policy of Northern Rhodesia, as reflected in particular in Ordinances encouraging the development of indirect rule, has been inspired by policy in the Mandated Territory of Tanganyika.

NYASALAND

The total population of the Protectorate of Nyasaland at the end of 1932 was estimated to be 1,606,431 Natives, 1,901 Europeans, and 1,583 Asiatics.

Nyasaland is essentially an agricultural country. At the end of 1932, 62,000 acres were under cultivation by Europeans. Food crops, chiefly maize, are the main cultivation of the Natives. Economic crops have, however, been developed. In 1932, 53,044 Natives were registered as tobacco growers, and the Native production of 5,900 tons was two-thirds of the total production. In 1931, it was estimated that over 32,000 Natives were growing cotton for sale.

In August, 1931, the following Natives were in paid employment:

	Male	Female
Skilled Native labourers, including clerks.	10,655	204
Unskilled Native labourers.	41,115	4,695

In addition, about 30,000 Natives were working outside the Protectorate, chiefly in the Rhodesias and in the Union of South

¹ 52 per cent. in 1933.

Africa. This migrant labour force is the chief feature of the labour situation in Nyasaland. It is apparently not the Government's policy to put any definite check on the exodus of labourers, but on the other hand, owing to the economic and social situation in the Territory, recruiting for service abroad is totally prohibited. Within the Territory, local recruiting is not restricted, while for employment outside the Natives' home district, recruiting is permitted subject to licences.

THE MANDATED TERRITORY OF TANGANYIKA

(1) *Labour demand and supply.* — In the census year 1931, the population of the Mandated Territory of Tanganyika was 5,022,640 Natives and 41,020 non-Natives, of whom 23,422 were Indians and 8,228 Europeans.

Agriculture is much the most important industry of the country. About 2,591,000 acres have been alienated for European settlement, sisal and coffee being the chief crops grown on European farms. The third principal export crop, cotton, is largely Native-grown, and the fourth export crop, ground-nuts, is exclusively Native produce. Native agriculture, however, is mainly for subsistence.

Gold has become the chief mineral mined; exports amounted to £30,000 in 1926 and £195,000 in 1933, while development and extensive prospecting are still continuing. Tin, mica and diamonds also figure among the exports, but in the present years the second most important mineral in the Territory is salt. In 1933, including salt works, but excluding mines and mineral concessions, there were 321 industrial undertakings employing 17,690 workers. Most of these undertakings were subsidiary to agriculture (e.g. sisal factories, cotton ginneries). On mines the average labour force totalled 11,099.

The labour demand, however, is preponderantly for workers on European estates. This demand increased steadily from the end of the war until 1929. Beginning with 1930, the disastrous fall in prices led to drastic labour reductions. In 1933, conditions improved slightly, and are apparently continuing to improve, so that perhaps 1929 figures more closely correspond to future prospects than any published since.

In 1929, 21,771 contracts were signed, for the most part for periods of 180 working days. This figure, however, was only a little more than one-fifth of the labourers employed, the remainder consisting of local labour and of labour travelling independently. The Labour Department's Report for the year stated that in the

early days of the introduction of the contract the Native regarded it with profound suspicion, and that this attitude persisted for some years, and was not yet altogether abandoned. Latterly, however, it had become obvious that certain advantages, notably the provision for the journey, could be obtained by agreeing to the contract, while the fear of it as a possible means of oppression was disappearing. Against this tendency, however, had to be placed the increasing number of estates which are sufficiently well established to have acquired a good reputation among workers, who thus returned to them without reference to the recruiter and without entering into a contract. This tendency involved less adequate provision for the needs of the labourer, but signs were not wanting suggesting that the Native would before long expect the employer to make arrangements equal to those of the professional recruiter before he would leave home for the plantation. It was already not uncommon to find a batch of work-seekers announcing their determination to wait for employment until they found someone prepared to take them to their destination by motor transport. The use of the contract declined more than proportionately with the decline in the labour demand. In 1933, it was considered that the contract labourers did not exceed 10 to 15 per cent. of the total labour force. Another development in recent years has been the increase in mining employment; in 1933, 12,000 workers were estimated to be employed on the Lupa goldfields.

(2) *Methods and organisation of recruiting.* — In considering the recruiting question in Tanganyika Territory it is necessary to make some reference to the land and labour policy of the Administration. At a Conference of the Governors of Tanganyika Territory, Kenya and Uganda, held in 1926, a memorandum was adopted as a basis of land and labour policy. This memorandum stated that East Africa has already been committed to what is known as the dual policy, that is to a combination of non-Native and Native production, and continued:

“ The dual policy, however, raises considerable problems of its own. On the one hand there is the obligation which rests on every civilised Government of raising the capacities of its human subjects to their fullest expression; on the other, there is the equally imperative duty of developing to the utmost the productive power of its possessions. . . . It is not possible to allocate to each area a quota of human labour required for complete commercial success. The whole problem is to arrive at a just and far-seeing method of harmonising the best progress and welfare of the Native inhabitants with the maximum of production.”

For the solution of this problem the memorandum contained

certain principles, the most important of which, affecting the regulation of Native labour and of recruiting, are the following:

“(1) The ideal in view should be to enable land to be put to the best possible economic use, while also providing for the steady progress and welfare of its Native inhabitants and safeguarding them against serfdom in any form whatever.

“(2) Steady progress cannot be secured in some areas unless every able-bodied Native who shows no tendency to work is given to understand that the Government expects him to do a reasonable amount of work either in production in his own Reserve or on labour for wages outside it.

“(3) In areas where the first alternative is not within his reach, the Native should be definitely encouraged to go out to labour. In others, where both alternatives are open to him, the Government is not concerned to impose either upon him, but simply to ensure so far as it can that he shall work in the cultivation of his own land, if he pleases, or else as a wage-earner on alienated land, if he prefers it.”

In 1926, the Tanganyika Administration issued instructions to its officers regarding agriculture and labour, which further developed the policy contained in the memorandum of the East African Governors. These instructions lay down the principle that the first object is to induce the Native to become a producer in the manner most suited to his circumstances. In localities in which the Natives are industrious, growing economic crops and going out to labour, the administrative officers should encourage them in both forms of activity. In other localities suitable for economic crops, in which Natives are not industrious, the officers should exhort them through their chiefs to adopt some form of active work, but should inform them at the same time that they are free to grow their own crops or to labour for others as they may desire. It is insisted that Natives desiring to grow economic crops should be helped in every possible way, but that no step should be taken to induce Natives who have contracted the habit of working on farms in their neighbourhood to abandon that habit in order to grow their own crops for sale. Lastly, in localities where the Natives cannot grow economic crops, it is stated that administrative officers can best serve the State by exhorting Natives through their chiefs to adopt some form of active work, pointing out that, situated as they are, they can only do so profitably by engaging to work for the Government or on the farms which are seeking their labour.

As regards recruiting methods and organisation, the situation in Tanganyika was complicated by the war. Before the war labour was already being employed in considerable numbers, and as the demand grew far faster than the supply, a system of pressure

gradually arose. " While this was not the official German Government policy, there can be little doubt that reluctant Natives were ' encouraged ' to go to work to an extent that virtually turned the Administration into a recruiting agency; the degree of pressure varied no doubt with the district and the individual official, but compulsion to some extent was common throughout the country.¹ "

With the war this system became frank compulsion for military purposes, with the result that for several years after it was most difficult to obtain volunteers for any work. There seemed to be a general feeling that an order must be issued before anyone need go to work, even if the employment grew quite popular when it was once begun. In these circumstances the private recruiter, subject to strict administrative control, appears to have rendered valuable services in organising a Native labour supply, free from the compulsion of administrative encouragement.

In its 1927 report, however, the Labour Department stated that, while some recruiting agents were a real asset, others were capable of causing great harm to all concerned. The labour agent was held to be in many ways a necessity, and, if honourable, to have a definitely good influence on labour conditions. On the other hand, the recruiter who had taken to the business to snatch what he could at the expense of both the employer and the Native " is an unmitigated evil, robbing both parties with whom he deals, and doing great harm to the labour market generally; usually of doubtful antecedents, he takes every opportunity of indulging in the shady practices of which the business admits, and relies upon being able to shelter himself behind the excuse of a mistake on the part of his Native ' agent ' in case of trouble."

In 1928, it was accordingly found necessary to make more stringent the conditions for the issue of licences to labour agents. In particular the responsibility for issuing the licences was transferred to the Labour Commissioner for the whole Territory in place of the local district officer. The result was to create one central authority to deal with all applications for permission to recruit, thus enabling a much closer control to be maintained. As a result, it was no longer possible for some undesirable person who had been prevented from recruiting in one district to move to another area and start afresh. This system was continued until 1931, when owing to the abolition of the Labour Department, responsibility

¹ Report by Major G. St. J. ORDE-BROWNE, O.B.E., upon *Labour in the Tanganyika Territory*, 1926.

for the issue of licences was transferred from the Labour Commissioner, but this time to the Provincial Commissioners instead of the district officers.

KENYA

(1) *Labour demand and supply.* — In 1932 the estimated population of Kenya was 3,076,343 Natives and 68,698 non-Natives, of whom 34,966 were Indians, 17,249 Europeans and 11,752 Arabs.

The resources of Kenya are principally agricultural. The total area exceeds 140,627,000 acres of land surface, of which 6,550,000 acres have been alienated and 979,000 acres are available for alienation. The area actually in European occupation on 28 February 1933 was slightly over 5,206,000 acres, of which 594,000 acres were under cultivation, 1,555,000 were grazed by cattle owned by Europeans and 725,000 by sheep owned by Europeans. Of the remainder a portion is devoted to the maintenance of Native squatters and their stock. The principal European crops are coffee, maize and sisal. Native agriculture is mainly for subsistence and for local markets.

Gold discoveries of apparently considerable importance have recently been made, notably in the Kakamega district towards Lake Victoria and the Uganda border. Alluvial deposits appear to have been rapidly exhausted but reef mining on a large scale seems possible. In 1931 gold exports were to the value of £13,000 and in 1932 increased to £53,000. The only other mineral extracted on any but a small scale is sodium carbonate, which is obtained from Lake Magadi, by a European company; 37,000 tons were exported in 1932, to the value of £170,000.

The European settlers for the most part farm on a large scale and the demand for Native labour is considerable. For over 20 years employers complained of a labour shortage. Government commissions were appointed in 1908, 1912, 1920 and 1927 to investigate the problem, while in 1924 an Economic and Finance Committee enquired into certain aspects of it.

“ In earlier days the position was not comparable with the conditions which exist to-day. Contact between a sparse European population and the Native tribes had not been made to any appreciable extent, and the African had taken no part in labour in any form outside his own habitat. With the development of a Western civilisation and the demand created for the fulfilment of its needs in respect of production and other activities, the Natives steadily responded. Passing over a period of variable conditions in regard to labour supply, there was, towards the end of

1924, and continuing through the greater part of 1925, an acute shortage of labour to meet the requirements of the non-Native population. There is evidence in the Agricultural Census returns of 1925 to show that progress was somewhat arrested in that year, and the confidence of the farming population in particular was shaken in the adequacy of the labour supply likely to be available for purposes of development and production."

The 1927 Commission, from the report of which the above quotation is taken, estimated the total labour requirements at the time at 169,638, 147,623 of whom being adult males. For 1929 (April-September), the Commission considered that there would be a demand for 102,309 agricultural workers and 103,966 workers in other employment. Making an allowance for 6,000 units of labour supplied by squatters on European farms and for 24,000 women and children, but not for immigrant labour, 176,275 workers were considered to be the probable demand to be supplied out of a fit adult male population of 407,623. This would have meant a percentage of adult males in employment away from their villages of over 40.

The provisions, however, of the 1927 Commission were not realised. In actual fact an average of only 160,000 Natives was in employment in 1929 and this average dropped further to 141,000 in 1931 and 132,000 in 1932. (The monthly averages for 1932, however, indicated the possibility of a gradual increase in demand. In December, 140,000 were in employment as compared with 127,000 in December 1931.) Of the average of 132,000 in employment in 1932, 117,658 were Kenya Natives, the remainder being from Uganda, Tanganyika and other territories. The Kenya figure represents 24.8 per cent. of the total estimated able-bodied adult male population.

The dual policy of Native and non-Native development adopted by the Conference of East African Governors in 1926 and referred to above in connection with the Mandated Territory of Tanganyika raised great practical difficulties in Kenya. In recent years, however, the Administration appears to have taken advantage of the reduced demand for labour to restore to some extent the balance in favour of Native production. A forward policy of economic development has been sketched in the reserves and an effort made finally to settle the land problem as between Europeans and Natives. Time alone will show whether, in years of higher prices and possibly of large-scale gold mining, the European demand for labour is incompatible with Native development in the reserves, or whether the whole question may not be solved on the one hand by higher living

standards among the Natives and on the other by the more economic use of a more efficient labour force in European employment.

(2) *Methods and organisation of recruiting.* — The question of recruiting has been one of the central points in the labour controversy. The demand for direct recruiting by Government officers has at times been pressed, while from other quarters criticisms have been directed at the authorities for permitting pressure to be brought to bear on Natives to accept European employment. That the controversy is not yet settled is indicated by a suggestion (which, however, appears to have been made to restrain lawlessness rather than to increase the labour supply), at a public meeting of settlers in July 1934 that in future all Lumbwa labourers should be recruited through the District Commissioner.

At present recruiting is organised by private recruiters. Even before the recent decline in employment figures, however, the scale of their active recruiting operations seems to have been small. In 1932 the number of written contracts entered into for the whole year only totalled 8,702. It is not clear to what extent these contracts were entered into through recruiters, who in any event were mainly concerned with negotiating on behalf of employers for the renewal of agreements with former workers and with advancing money for head tax, railway fares, food, blankets, etc. to such workers.

Recruiting is subject to the provisions of the Employment of Natives Ordinance, which provide for the licensing of recruiters as labour agents.

UGANDA

The Protectorate of Uganda, with a Native population of 3,536,267 (1931), an Asiatic population of 14,061 (1932) and a European population of 1,811 (1932), is primarily a territory of Native production. The principal export product is cotton, which is almost exclusively grown by Natives on small plots scattered throughout the country. Compared with cotton, other export crops are of small importance, and compared with Native production, non-Native production is of even less importance. European planters chiefly grow coffee, tobacco, tea and rubber. Indian planters grow sugar, rubber, sisal and coffee, and a large sugar estate and factory has been developed by an Indian firm.

The monthly average of persons in employment in 1932 was 407,198, of whom the great majority were unskilled labourers

employed in Native agriculture. The recruiting problem appears to be limited to the supply of the needs of non-Native employers. Up to 1923, the local labour supply was generally sufficient, although it was often necessary to recruit labour from district to district. From 1923 to 1927 a shortage of labour was experienced and a considerable amount of foreign labour was admitted, mainly from the Ruanda sultanate of the Mandated Territory of Ruanda-Urundi. The Native labour supply, however, is now adequate for present needs.

The Masters and Servants Ordinance, which provides for the licensing of recruiters, closely follows the terms of the Kenya law.

OTHER BRITISH AFRICAN DEPENDENCIES

Of the other British African Dependencies, questions of recruiting arise on a small scale in Zanzibar and the Seychelles Islands.

West African law will be treated in this Report because recruiting for employment outside the territories is closely regulated. The important labour movements within the territories, however, appear to be entirely spontaneous. Even the rapidly developing gold mining industry of the Gold Coast has apparently no need for recruited or long-term contract labour.

B. — TERRITORIES IN ASIA

MALAYA

(1) *Labour demand and supply.* — The chief labour demand of British Malaya is for unskilled workers for the agricultural estates (mainly rubber plantations), the mines (almost entirely tin mines), and the construction and maintenance of essential public services such as roads and railways. It proved impossible to draw for this purpose to an appreciable extent on the Malayan population, and the necessary labour has to be supplied from abroad. This was made possible by the comparative proximity of two densely populated areas, the Madras Presidency and Southern China.

So far as the supply from the latter area is concerned, emigration into the Peninsula is spontaneous and unassisted. In the 1931 Census, the Chinese in British Malaya (i.e. the Peninsula, including the State of Brunei in Borneo) numbered more than 1,709,000, or nearly two-fifths of the total population of all races. It is, however, principally in the Federated Malay States, where 41.5 per cent. of

the population is Chinese, that they are found in agricultural and mining employment. In the Unfederated Malay States, with the exception of Johore, the Chinese form numerically a far less important element of the population, a considerable number of them being employed on rubber plantations.

Unlike the Chinese, the Southern Indian emigrant does not come to Malaya on his own initiative, but is assisted to emigrate, protected while in Malaya, and ultimately helped to return to his native land. It was, in particular, the growth of the rubber plantation industry which gave rise to this labour immigration from India, and, of the 624,000 Indians enumerated in the 1931 Census, 304,000 or nearly 49 per cent. were found on the estates.

There is a third area which, from its proximity to the Peninsula and the density of its population, might have served as a labour reservoir for British Malaya, namely, Java. Any great development of the immigration of Javanese labour has, however, been prevented by the high cost of recruiting, and the success of free Indian immigration under the Indian Immigration Fund. Thus, only a very few estates in the Federated Malay States and the Straits Settlements now employ labour directly introduced from Java. Nevertheless, when negotiations were carried on in 1931 with the Netherlands Indian authorities for the abolition of indentures for Javanese labour—the abolition of this last survival of the indentured labour system in British Malaya has since become a fact—the British Malayan authorities desired to ensure the possibility of recruiting free labour from Java ¹.

In 1932, the numbers of Chinese, Indians and Javanese and others employed on estates, in factories, in mines, and by Government departments was as follows: Chinese, 105,070; Indians, 177,927; Javanese and others, 33,042; these figures relate to places of employment in which ten or more labourers were employed, exclusive of dependants. In 1929, the corresponding figures were: 115,897, 336,334, and 32,639.

(2) *Methods and organisation of recruiting.* — Emigration of labour from China to British Malaya, which is spontaneous and unassisted, the migrants paying their own passages, was originally characterised by a particularly bad system of speculative recruiting. The collecting agents operated both by force and fraud in the neighbourhood of Chinese emigration ports. The recruits were

¹ Indisch Verslag 1931. Vol. I: *Tekst van het verslag van Nederlandsch-Indië over het jaar 1930.*

carried on overcrowded vessels and landed at any port where there was a demand for labour. Generally, the coolies signed contracts for twelve months in order to repay the expenses of recruiting. This form of recruiting was given the name of "pig business" by the Chinese.

Official control was first introduced by the Chinese Immigration Ordinance No. II of 1877. A Protector of Chinese was appointed in Singapore with an assistant in Penang; a Government depot was established to receive those who had not paid their passage money, and all labour contracts had to be registered. Finally, in 1914, the indentured labour system for Chinese was abolished; and this was followed by the abolition of imprisonment and fines for labour offences. The Labour Codes in force in the Malayan Peninsula, however, still contain provisions concerning assisted immigration. The "indebted immigrant" is liable to repay his "creditor" the amount of passage money and advances, but the Protector may limit the amount, and the liability for repayment is a civil one. According to the annual reports of the Secretary for Chinese Affairs of the Straits Settlements, no cases of assisted immigration have been dealt with since 1927.

Emigration of Indian labour to the Malayan Peninsula was originally spontaneous, but in the middle of the nineteenth century transport by ship to the Peninsula was more or less regulated in order to prevent overcrowding, and, as a result, fares rose to such an extent that poor emigrants could no longer afford to pay their passages. Straits Settlements employers now sent out agents to recruit labourers in India, and shipowners, merchants and others began recruiting as a speculation (professional recruiting). After the separation of the Straits Settlements from British India in 1867, the Indian Government exercised various measures of control over emigration in order to secure its subjects proper treatment. Nevertheless, a Commission appointed in 1890 to enquire into the state of labour in the Straits Settlements and Protected Native States, found (1) that the quantity was insufficient, partly due to the defective method of recruiting (professional recruiting by special firms); (2) that the quality was defective, due to the fact that non-agricultural people, such as weavers, cooks, laundry-men, etc., were enlisted; (3) that the cost was heavy, due to the fact that recruiting was practically monopolised in the hands of a kind of recruiters' agents' trust. Finally, all restrictions on emigration from India were removed in 1897, and emigration remained uncontrolled as far as the Government of India was concerned, except for a short period during the war, until 1923.

Meanwhile, the rubber growers, towards the end of the last century, had introduced a new recruiting system, namely, recruiting by workers (*kanganies*). As this system gradually became more and more important, special licences for *kanganies* were introduced (1901) in order to check abuses. At the end of 1906, when a rubber boom gave rise to the opening of many new estates and consequently to a sudden increase of the demand for labour, "crimping" threatened to undo the good results obtained by *kangany* recruiting. The solution adopted was the creation of a common recruiting organisation for all planters that made use of immigrant labour, in the form of the Indian Immigration Committee (1907) and the Indian Immigration Fund (1908). In 1910, the indentured labour system was abolished for Indians. With the passing of the new Indian Emigration Act 1922 (No. VII of 1922), which came into force in March 1923, emigration to Malaya was again brought under control by the Government of India, and was made conditional, among other things, on the abolition of penal sanctions for labour offences.

The system of recruiting Indian labour for Malaya which is now in operation is accessory to a system of assisted immigration. The labourers assisted to immigrate fall into two categories: recruited and non-recruited or voluntary workers. Before the crisis the latter formed an increasing minority, as is illustrated by the following figures showing for each of the years from 1920 to 1930 the percentage of non-recruited adult assisted labourers: 12, 13, 11, 25, 23, 28, 20, 27, 41, 37 and 38¹. The total number of assisted passages for the years 1927 to 1930 was respectively 114,104, 24,944, 76,248 and 36,957.

In August 1930, assisted immigration was suspended on account of the slump in rubber and tin and since that time only a very small number of non-recruited persons have been given assisted passages to Malaya in order to enable them to join their relatives. In May 1934, however, the Government of India agreed on certain conditions to the resumption within certain limits of the assisted emigration of non-recruited workers.

The main features of the system of assisted immigration are: (1) the collaboration between the Malayan Governments and the Government of India; (2) the working of the Indian Immigration Fund, and (3), so far as recruiting is concerned, the *kangany* system.

¹ Annual reports of the Agent of the Government of India in British Malaya.

(1) The Indian Emigration Act of 1922 prohibited emigration for the purpose of unskilled work except to such countries and on such terms and conditions as the Governor-General in Council might specify. This made it necessary for the Malayan Governments, desiring to preserve the possibility of drawing on the Indian population for labourers, to come to an understanding with the Government of India concerning the conditions upon which emigration to Malaya might be continued. One of these conditions deserves to be mentioned here in particular, namely, that the Malayan Governments should admit and give all facilities to an Agent appointed by the Government of India for the purpose of safeguarding the interests of the emigrants. Accordingly, the Government of India maintains a representative in Malaya, who ensures that the agreements existing between the administrations concerned are carried out. On the other hand, the Malayan recruiting and forwarding organisation, which is of an official character, has its own representative staff in India.

(2) The Indian Immigration Fund is maintained by legally prescribed assessments levied on employers in accordance with the extent to which they have recourse to Indian labour. From this Fund are paid all expenses, including administration, connected with the importation of labour, and, moreover, certain sums for repatriating and otherwise assisting Indian labourers in distress, maintaining homes for decrepit Indian workers, caring for their orphans, etc. The Fund is managed by the Indian Immigration Committee under the Chairmanship of the Controller of Labour; this Committee, which is composed of officials and non-officials representing all interests concerned, controls migration from India to Malaya.

(3) The actual recruiting, if any, is done by the *kangany*, an ex-labourer of the estate who, returning to India, obtains for his employer, under the control of the Malayan as well as the Indian authorities, labourers whose passage money is paid subject to the understanding that they will undertake work in Malaya. The *kangany* receives remuneration in the form of a commission from his employer, the latter being recouped for this expenditure and other incidental costs by a recruiting allowance paid from the Immigration Fund.

Non-recruited workers are emigrants who dispense with the help of a *kangany* and apply direct for assisted passages at one of the *dépôts* of the Malayan recruiting and forwarding organisation in India.

CEYLON

(1) *Labour demand and supply.* — Most of the labour employed on plantations in Ceylon is recruited in Southern India. The demand for Indian labour sprang up more than a century ago when Europeans began to open up the jungles in order to plant coffee. Sinhalese labour was not available on the spot, and refused to move to and work on estates situated at higher altitudes. From that time up to the present day, the Ceylon planters have drawn on the labour reservoir which they found near at hand in the Madras Presidency. Meanwhile coffee, which was almost entirely exterminated through disease some sixty years ago, was replaced by tea. This product which, like coffee, is grown in the hills, is almost entirely worked by Indian labour. On the other hand, rubber, the cultivation of which has developed during the last thirty-five years, employs a large proportion of Sinhalese labour, about 40 per cent. of the acreage being cultivated by Sinhalese. In general, however, this 40 per cent. consists of small estates and is worked by villagers non-resident on the estate. Finally, the third main estate crop, coconuts, which is grown exclusively in the low country, is but rarely worked by Indian labour, the demand being usually met by the local supply. The Indian estate population has declined in the last few years; while it was 740,000 in 1929, the number on 31 December 1932 was 651,000.

(2) *Methods and organisation of recruiting.* — The recruiting of labour in South India for Ceylon has always been conducted by worker-recruiters (*kanganies*), who are themselves Indian estate labourers. For many years, this system worked without official supervision. However, during the first decade of this century, a sharp increase of demand for labour happened to coincide with a decrease of supply, apparently due to an improvement in the economic conditions of the "depressed classes" in parts of the recruiting area. The heavy strain on the labour market resulting from these circumstances gave rise to abuses. Professional recruiting sprang up, and the *kangany* system was seriously affected by "crimping" by employers and by the system of advances known as the "tundu" system. Measures taken by the Ceylon Government in order to check the abuses apparently proved inefficient. About 1907, the planters who, up to that time, used to secure their labour independently of each other, decided on a certain measure of co-operation for the purpose of recruiting, but as long as the system of advances continued the introduction of

substantial improvements was impossible. However, the "tundu" system was declared unlawful by Ordinance 43 of 1921, and under the Indian Emigration Act, No. VII of 1922, the Government of India imposed on Indian labour emigration to Ceylon a series of conditions which resulted in the passing of a new Labour Ordinance (No. 1 of 1923) by the Ceylon Government. A Department of Indian Immigrant Labour was established and a central recruiting organisation (Immigration Fund) set up, which, but for certain administrative differences, is substantially similar to the one existing in Malaya.

As in Malaya, recruiting for Ceylon is accessory to the system of assisted emigration. The numbers of assisted immigrants during the years 1927 to 1932 were respectively: 159,398, 133,712, 105,095, 91,422, 68,337 and 50,869. Many of these immigrants were not recruited; about 50 per cent. are old labourers (*palaials*) and their dependants, who hold identification certificates issued by their previous employers stating that work is open for them in Ceylon; on their application at the agencies of the Ceylon recruiting organisation in India they are despatched to their employers. A certain number also are nominated for passages by their relatives or friends in Ceylon. However, by far the greater part of the assisted immigrants new to Ceylon are recruited through *kanganies*, the system of recruiting being substantially the same as the one in operation for Malaya.

HONG KONG

Mention need be made of Hong Kong only as a port from which labourers recruited in China emigrate, and where this emigration is controlled.

The total numbers of "assisted emigrants"—i.e. male emigrants who intend to work for hire in some place beyond the limits of the colony and who have received assistance in the way of payment of passage money, subsistence or otherwise in order to enable them to carry out their intention—during the years 1927-1932 were respectively 22,052, 19,952, 16,988, 8,316, 3,817 and 1,890. The main territories to which they proceeded were Malaya, British North Borneo, Netherlands Indies, Mandated Territories of Western Samoa and Naury, and Ocean Island ¹.

¹ Reports of the Secretary for Chinese Affairs for the years 1927-1932, Hong Kong.

BRITISH NORTH BORNEO

According to the 1931 Census, the population of British North Borneo was 270,223, of whom 205,218 were Natives, 47,799 Chinese, and 9,854 emigrants from the Netherlands Indies. The Native population is small and primitive, and the labour force for the agricultural and timber-cutting industries has been largely obtained by immigration. The total labour force of the undertakings employing twenty or more workers during the years 1929 to 1933 was respectively 18,534, 12,563, 10,276, 8,395 and 8,695. Of the 8,695 workers employed in 1933, 3,368 were Chinese, 1,982 Javanese, and 3,345 Borneo Natives and others.

Chinese labour was formerly brought from Hong Kong, but no assisted emigration from Hong Kong has been recorded since 1929. As regards indigenous labour, the Labour Ordinance of 1929 contains a provision relating to coolie brokers, which points to professional recruiting. On the other hand, a Rule made under section 68 of that Ordinance allows recruiting by workers. From the 1933 Report on the Protectorate Department, it would appear that indigenous labour, apart from local engagements, has been recruited by licensed Native recruiters and European British subjects. As a result, however, of a recommendation by the Labour Committee appointed in 1932 to investigate the question of labour supply and control, the licences granted for that purpose were suspended as from the beginning of 1934.

Javanese labour, which since 1914 is imported through Government, is recruited under permit of the Netherlands Indian Government. From 1914 to 1933, 6,909 males and 3,060 females, exclusive of dependants, have been so imported, whereas 5,262 males and 1,912 females have been repatriated.

Chinese and Javanese workers used to be employed under long contracts with penal sanctions, but in December 1932 an Ordinance was passed abolishing indentured labour as from the beginning of 1933.

The future supply of labour, especially from the Netherlands Indies, was investigated by the above-mentioned Labour Committee which recommended in April 1933 that an immigration fund should be set up for Javanese labourers, by means of an initial loan from Government, repayment of the loan to be made by means of a quarterly cess payable by all employers of such labourers. In October of the same year, the Protector of Labour and the Chairman of the Planters' Association visited Java for the purpose of discuss-

ing with the Netherlands Indian Labour officials the conditions under which free Javanese labour could be secured. A satisfactory solution of outstanding problems is reported to have been reached, and, at the end of 1933, the arrangements made were awaiting ratification by the two Governments¹.

C. — TERRITORIES IN AUSTRALASIA AND OCEANIA

MANDATED TERRITORY OF NEW GUINEA

The Mandated Territory of New Guinea consists of a land area of about 91,000 square miles, approximately three-fourths of which is on the mainland of New Guinea and the remainder constituted by the Bismarck Archipelago and the Northern islands of the Solomon group. The enumerated Native population on 30 June 1933 was 401,129. The enumeration excluded areas not under complete control, the estimated population of which in 1930 was 121,250. In 1933, non-Natives numbered 5,215.

The great bulk of the Native population is engaged in primitive agriculture, and the Administration is endeavouring to increase the crops grown both for subsistence and for local sale.

Export crops are produced on European plantations. In 1932-1933, the total area of the plantations exceeded 205,000 hectares, of which 88,000 were under cultivation. The chief agricultural export was copra, of which 59,000 tons were exported, to the value of £543,000. In addition, exports of desiccated coconut were to the value of £73,000. Coffee, cocoa and tobacco are among the other crops cultivated. The chief feature of the trade of the Territory in recent years, however, has been the expansion of gold mining. In the year ending 30 June 1934, gold to the value of £16,000 was exported. In 1931-1932 exports amounted to £398,000, and in 1932-1933 to £933,000.

The demand for Native labour was until recently almost entirely and is still largely for work on European plantations. On 30 June 1933, 28,242 Natives were employed under contracts of service. Of this number, 16,999 were employed on plantations, 3,875 in mining operations, 3,284 in commerce and industry, and 2,283 in domestic service.

The Australian Administration, on assuming control of the

¹ Annual Reports on the Protectorate Department for 1932 and 1933.

Territory, found the system of indentured labour on European-owned plantations in force. Under this system was taking place the only movement in the direction of economic development in the Territory, and there was therefore no question of an abrupt change of method. Moreover, the Administration considered that, whether by the indenture system or in other ways, the Native must be induced to work in view of the fact that unless he was given both physical occupation and an interest in life to replace the occupations and customs of his former life, he would surely die out. For this reason, the Administration offered certain inducements to Natives to become wage-earners, in particular by exemptions under the Native Taxes Ordinance.

At the same time, the Administration took detailed measures for the protection of Native labourers in the Native Labour Ordinances, and numerous orders have been issued prohibiting the recruiting of Natives in certain districts which had been over-recruited in the past, or where there were signs of a decline in population.

One of the aims of the Administration has been, in the course of time and when conditions are favourable, to encourage Natives to engage as non-contract labourers. To this end a section of the principal Native Labour Ordinance of 1922 permitted the engagement of a Native for service within 20 miles of his home for a period not exceeding three months without a contract of service. A 1933 amendment extended this principle by inserting a new part in the Native Labour Ordinance for the purpose of regulating such employment. Natives may now engage as non-contract labourers where their customary place of residence is within such distance as may be prescribed from the place of employment.

As regards the method and organisation of recruiting, the Native Labour Ordinance provides for the licensing and control of recruiters and recruiting vessels, prohibits Natives being taken out of the Territory without a special permit, and, as already mentioned, enables orders to be issued closing areas to recruiting when special circumstances require such action.

During the year 1 July 1932 to 30 June 1933, 422 recruiting licences were issued, of which 398 were granted to Europeans and 24 to Asiatics. Eleven of the licences were issued to European professional recruiters. The licences issued to Asiatics restricted recruiting to the holders' own requirements or to the requirements of their employers.

MANDATED TERRITORY OF NAURU

Nauru is a circular atoll some 12 miles in circumference. Its importance is due to the phosphate deposits, exports of which in 1933 exceeded £436,000 in value. The deposits are worked under the control of the British Phosphate Commissioners, who are appointed by the Australian, British and New Zealand Governments. The island is administered under mandate by Australia.

On 1 July 1933 the population was 2,641, of whom 1,527 were Nauruans and 936 Chinese.

The labour force required for the mining and exportation of phosphate is provided by Chinese coolies, recruited at Hong Kong under three-year contracts. On 31 December 1933, 931 were in employment.

Nauruans may not be recruited for employment abroad, and in Nauru the only employment they engage upon is of a casual nature.

TERRITORY OF PAPUA

The Native population of the Territory of Papua is estimated to be 275,000 and slightly increasing. The European population on 30 June 1932 was 1,152.

Economic conditions are similar to those in the Mandated Territory of New Guinea. Copra and desiccated coconut exports in 1931-1932 amounted to £160,000, rubber to £49,000 and gold to £34,000.

In 1926 an average of 9,672 Native labourers were employed under contract. With depressed trade conditions this number declined to 5,244 in 1932.

As in New Guinea, normally Natives employed by Europeans must enter into contracts of service with their employers, and the law contains provisions controlling recruiting by the licencing of recruiters and of recruiting ships. Nevertheless, the Administration is endeavouring to encourage the employment of Natives without contracts, and the present law as amended in 1931 permits such employment for men over sixteen years of age whose village is within 20 miles of the place of employment and for women over sixteen years of age whose village is within four miles of the place of employment.

In reporting on a 1927 Ordinance passed for the same purpose, the Administration stated that one of its chief recommendations

was that it would help to prepare the way for the abolition of all long-term penal sanction contracts. Employers, however, seem to have shown little liking for the new system. The Commissioner for Native Affairs reported that they apparently "much prefer the established contract of service system, even when experienced free labour is not only available but actually seeking employment, and in spite of the very significant fact that, by employing free labour, they are saved expensive recruiting fees, transport of Natives from and to their homes; and Native Labour Office fees. For instance, on one plantation, which I select at random, and where the free labour in the vicinity exceeds the number of Natives employed under contract of service, it costs the management approximatively £8 per head for recruiting and other fees and transport in respect to the contract of service Natives employed." ¹ Nevertheless, in 1932, 1,923 labourers were in employment without contracts of service.

MANDATED TERRITORY OF WESTERN SAMOA

Western Samoa is administered under mandate by New Zealand. On 1 April 1933, the estimated population was 48,181. The Native Samoan population was 44,487. The total value of exports in 1933 was £183,000 (copra £108,000, cocoa £49,000, bananas £20,000).

Engagement by Samoans in regular employment for wages has in the past been quite extraneous to the style of living of the bulk of the population, and economic conditions have left the people free of the need for such employment. Plantation work, when availed of, has usually been arranged with the head of a family under terms which gave a return of from 1s. 6d. to 2s. per day per head of those engaged. The work was mainly weeding or cutting copra, and the total number of Samoans so employed has probably not exceeded 400 at any one time. With the low copra prices, however, Samoan labour appears to be offering itself to a slightly greater extent.

Nevertheless, plantation requirements have continued to be largely met by imported labour, mainly Chinese, who are recruited in Hong Kong under three-year contracts by the Administration of Western Samoa. On 31 March 1933, 636 Chinese labourers were in employment. In addition, there were 119 Melanesian labourers, although there is now no recruiting of Melanesians.

¹ Commonwealth of Australia, Territory of Papua. *Annual Report for the Year 1927-1928*, p. 63.

GILBERT AND ELLICE ISLANDS

The colony consists of twenty-five islands, forming two groups of coral atolls, Ocean Island some 250 miles to the West, and three other islands some 1,800 miles to the East. The various components of the colony are so scattered that a rectangle of a million square miles of ocean would not contain them all, and yet the total area is less than 200 square miles of land. The population of the whole colony on 30 June 1932 was 33,685, of whom 33,036 were Natives, 398 Chinese and 251 Europeans. In recent years the Native population has been slowly increasing.

The most important product is phosphate of lime, mined in Ocean Island by the British Phosphate Commissioners. In 1931 to 1932, exports were to the value of £191,970. Copra is produced on every island except Ocean Island. It is grown as a plantation crop in the outlying islands, and by Natives in the Gilbert and Ellice groups. Exports in 1931-1932 were to the value of £67,150.

On Ocean Island, the British Phosphate Commissioners employ some 60 Europeans, 550 Gilbertese and 370 Chinese. The Gilbertese labourers are recruited for eighteen months, and about a third of them are accompanied by their wives and children. The Chinese are engaged from Hong Kong under three-year contracts; they are not accompanied by women. On three of the copra-producing islands there is no indigenous population; on two of them about 250 Natives are employed under three-year contracts, renewable for a fourth year; on the third, Tahitian labour is employed.

Recruiting is subject to the provisions of King's Regulation No. 1 of 1915 and amendments. The law provides for the licensing of recruiters and of recruiting vessels, while any person who desires to engage labour for a period exceeding one month is required to obtain a permit from the authorities.

BRITISH SOLOMON ISLANDS

The British Solomon Islands Protectorate is a larger and more compact group of over 11,000 square miles. The group, however, extends some 900 miles from its North-Western to its South-Eastern extremity. According to the 1931 census, the population totalled 94,066, of whom 93,415 were Melanesians and Polynesians, 478 Europeans and 164 Chinese. It is uncertain whether the population is stationary, increasing or decreasing. It has, however, decreased

in modern times, and it is regarded as probable that it is still decreasing on the principal island.

The chief export is copra, which accounted for £137,000 out of total exports of £176,000 in 1931-1932. The bulk of the copra is produced under plantation conditions. On 31 December 1933, 2,495 Natives were in contract employment.

Recruiting in the islands has had a long and unhappy history. Shortly after 1860 Natives were recruited to work on the plantations in Queensland and Fiji. After a period of suspension between 1884 and 1885, recruiting for Queensland was reopened, but ceased altogether in 1903. Recruiting for Fiji continued until the end of 1910. In the case of the Queensland plantations, recruiting involved an annual drain of some 1,000 labourers, large numbers of whom never returned. The recruiting or removal of Natives beyond the Protectorate is now illegal except under special permit.

The control of recruiting is similar to that exercised in the Gilbert and Ellice Islands.

NEW HEBRIDES

By the Convention of 20 October 1906, between the United Kingdom and France, the New Hebrides is administered as a condominium by both Powers, each of which retains sovereignty over its own nationals.

The Native population is estimated to be between 40,000 and 60,000, and in general is considered to be still on the decline. The non-Native population, at the end of 1932, consisted of 789 French, 214 British, 1855 French protected persons (mostly Tonkinese), 56 foreigners who had opted for the British legal system, and 79 foreigners who had opted for the French legal system.

In 1932, the value of the copra crop exceeded £36,000, and of cocoa £27,000. These figures reflected the economic depression, since in 1928 copra was produced to the value of £208,000 and cocoa to the value of £77,000. Coffee, cotton and maize are also exported.

With the exception of copra, of which about one-sixth is produced by Native owners, these products are grown entirely on European-owned plantations. The plantations are worked by British settlers with indigenous labourers, partly under contract and partly employed as casual labourers. French settlers employ Native labour, and also Tonkinese coolies imported by the French authorities. At the end of 1932, there were 1,813 Tonkinese and 42 Javanese coolies under contract to French settlers. The proportion of

casual or non-contract Native labourers as compared with contract Natives employed by British settlers is about two to one and by French settlers about four to one. The maximum period of contract for indigenous labourers is three years, but with the growing popularity of the casual labour system these lengthy terms are becoming more and more rare, the Native preferring short contracts or if possible no contracts at all. The usual term of contract for the Tonkinese coolies is five years.

Conditions of employment are governed by the labour provisions of the Protocol of 1914. In addition, British settlers are subject to separate legislation, which is now embodied in King's Regulation No. 1 of 1934.

§ 3. — Spain

SPANISH TERRITORIES OF THE GULF OF GUINEA

(1) *Labour demand and supply.* — Spanish Guinea, with the Islands of Fernando Po, Annobon, Corisco and Elobey, is believed to have an area of about 30,000 square kilometres, a considerable part of the area on the mainland being still unexplored. The wealth of the country consists in *okumé*, a variety of mahogany much sought after for ply-wood, plantations of rubber and coffee, and the cultivation of fruits such as the banana. Up to the present, these territories have been developed only to a limited extent, this situation being apparently due in part to the concession system, in part to their relatively unhealthy character and, finally, to the inadequacy of means of communication by land and sea.

A few years ago the total population of these territories was about 3,000 Europeans and 120,000 Natives. No information appears to be available regarding the numbers of Natives in European employment, but up to a few years ago the labour force of Fernando Po was partly drawn from Liberia. From statements made in the Spanish Chamber of Deputies on 31 March 1932, it would appear that the physical condition of the Natives of Spanish Guinea has been seriously affected by sleeping sickness and other diseases. After referring to the recruiting, or rather "capturing", of Natives of the "Bubi" race by the colonial guard, MM. Sanchez Prado and Guerra del Rio declared that these practices would not solve the problem of the lack of labour, for the Bubi race, already deteriorated by alcoholism and syphilis, was hardly capable of labour and would soon disappear; in the absence of thorough-going remedies and an exhaustive study of the whole system of

colonisation as practised up to the present, there was a risk that the undertakings owned by Spaniards in Guinea would little by little be abandoned.

(2) *Methods and organisation of recruiting.* — Various methods of recruiting apparently exist or have existed in the Spanish territories of the Gulf of Guinea. Some may be classified as recruiting carried out with the assistance or participation of official agents or organisations, while others may be described as recruiting by employers or professional recruiters.

A characteristic method of administrative recruiting is that permitted by section 24 of the Regulations of 1906 and which consists in compelling vagabond Natives of the Island of Fernando Po to undertake contract labour either for the State or for private persons. The Natives are to be placed under the guardianship of the "curadoria colonial", an official trustee body which gives its assistance in various forms of administrative recruiting. Another form of official recruiting is that which permits of the requisitioning of agricultural workers, industrial workers and domestic servants, in the districts of Bata and Elobey, to be sent to work in Fernando Po. Finally, the official Chamber of Agriculture of Fernando Po was provisionally authorised by a Decree of 21 June 1927 to recruit, through its agents, workers from the mainland of Spanish Guinea to meet the requirements of the agricultural and industrial undertakings of Fernando Po.

Under section 35 of the Regulations of 1906, "private persons who desire to do so are at liberty, acting for themselves or through representatives or agents, to engage Natives from the Spanish territory on the mainland, subject to the supervision of the deputy governors, who will grant the necessary authorisation unless there is reason to the contrary". The contracts of these workers must show that they have "freely consented" to accept employment and set out the principal obligations of the contracting parties. Finally, private persons living in the districts of Bata and Elobey may engage agricultural and domestic workers under contract to work in these districts and in Fernando Po.

§ 4. — France

For the purposes of the study of recruiting, the French overseas possessions may be divided into three groups:

(1) In the first group come the territories in Tropical Africa and in the Pacific. These territories are characterised by a very

low density of population. French Equatorial Africa, French West Africa, the Mandated Territory of Togoland, the Mandated Territory of the Cameroons and Madagascar have a total area of 8,139,000 sq. kms., with a population of less than 25 million inhabitants, giving an average density of three inhabitants per square kilometre. The main Native labour problem in these territories is therefore the dearth of labour resulting from the sparseness of the population. For a long time the policy of the Administrations has been to deal with this situation by measures designed, in the first place, to reduce the sickness and death rates by the provision of medical care, a campaign against epidemics, the reduction of alcoholism, etc., and, in the second place, to increase the output of the worker by means of improved equipment and machinery, better wages, and the general education of the Native. It was thought at one time that the dearth of labour might be mitigated by bringing workers from neighbouring colonies, but it is now more and more realised that each colony can count only on its own resources. There is consequently a growing tendency to find the real solution of the problems raised by recruiting in Africa in the rehabilitation and more effective use of local labour.

(2) The second group comprises Indo-China, where the density of the population is much greater than in Africa, but where recruiting nevertheless encounters difficulties due to the distribution of the population. In this Asiatic colony, the greater part of the Native labour employed (180,000 out of 220,000) is not under contract and its employment is practically unregulated. Recruiting problems arise only in respect of coolies recruited in Tonkin and North Annam for the plantations of South Annam and Cochin-China. These problems, which were acute about the years 1928-1929, have now become of lesser importance, mainly in consequence of the decreased productive activity due to the economic crisis, but it is not considered that they have been solved.

(3) The third group consists of the old French colonies of Reunion, Martinique, Guadeloupe and French Guiana, and North Africa. In these territories agreements between employers and workers are generally concluded verbally, and the employment of workers is usually local in character. There are no written contracts, nor, it would seem, any recruiting properly so-called. This third group of colonies is therefore excluded from consideration in the present report.

The vigorous impetus given to the development of the French colonies after the War resulted in an urgent and ever-increasing

demand for Native labour. In order to cope with the situation, it was considered of the first importance to take measures to safeguard the health of the workers employed. During the years which followed the War, therefore, the various local Governments introduced provisions designed to protect the health of the workers into their legislation regulating labour conditions and contracts. Moreover, measures applicable to all the French colonies were issued in 1924, the first being a Ministerial Circular of 22 July 1924 concerning measures for the protection of the health of Native workers, to be applied in all public and private works in all the colonies, and the second, a Ministerial Circular of 4 October 1924 concerning measures for the protection of the health of Native workers sent abroad. These two texts will be analysed in Chapters VI and VII respectively of this report.

When, in November 1930, the Chamber of Deputies adopted the Bill providing for large colonial loans, it decided, in order to avoid the undesirable effects that the carrying out of a large number of private works might have on the well-being of the Native peoples, that about one-tenth of the loan, that is to say, 300 million francs, should be allocated in priority to Native health services. The Senate agreed with the views of the Chamber, and, in the course of the discussion on the Loans Bill ¹, Mr. Léon Perrier, former Minister for the Colonies, emphasised two essential points: the protection of the health of the workers on the way to and at the place of work and the safeguarding of family life and the birth rate. He declared himself in favour of a policy of allowing wives to accompany their husbands, and of strict supervision of the numbers of Natives taken for employment. The Minister for the Colonies expressed his agreement with Mr. Perrier and recalled that instructions, which he would himself renew in the most categorical fashion, had already been issued on all these points. Ministerial instructions were later issued for the purpose of guiding the local authorities in the use of the supplementary credits for health purposes voted in connection with the big colonial loans. These instructions laid down, in particular, that no works should be started until there had been drawn up by the local authority and approved by the Minister (1) a plan for safeguarding the health of the workers and (2) a plan for the demographic protection of the communities from which the workers were to be drawn. In view of the importance of these instructions, which now determine the conditions

¹ Cf. *Sittings of 3 and 5 Feb. 1931.*

of recruiting in the French colonies, it will be useful to deal with them in some detail.

The health safeguarding plan must provide for all the measures necessary to maintain the workers in a satisfactory state of health from the time of recruiting until repatriation. Special attention is directed to the following points: the manner in which labour is levied and the proportion of the workers in relation to the total population and to other requirements (needs of colonists and local needs); method of recruiting and despatching labour; means of transport; health precautions during the journey; sanitary measures and organisation of the medical service at the place of work; organisation of the work; gradual adaptation of workers and allocation of work according to physiological condition, etc. It is of particular importance to determine the proportion of labour which may be called upon. This proportion should not exceed, in principle, 50 per cent. of the able-bodied adult males over 20 and less than 45 years of age. This proportion should, moreover, be dependent on the condition of the Native peoples and if their condition is one of extreme exhaustion (as is the case in certain regions where sleeping sickness is prevalent) no withdrawal of labour should be authorised.

In addition, regard should be paid to the requirements of colonists and the necessity of leaving for this purpose a sufficient proportion of the labour supply which is available.

The recruiting of workers should in no case exceed the limits laid down. If the number of workers available is insufficient, instead of endangering the future of Native populations by excessive calls upon them, efforts should be made to obtain labour from outside, either of the same racial origin or even drawn from another continent.

As regards the demographic protection of the communities from which labour is drawn, care must be taken that these communities do not suffer by the absence of the workers. Family life must not be destroyed. The recruiting of fathers of families must be dependent on the number of children for whom they are in fact responsible, and whose subsistence might be endangered by the departure of their fathers. Women whose husbands are absent must be placed under the strict protection of the authorities and should remain as vigilant and faithful guardians of the home.

From a more general point of view, regard must be paid to the requirements of the cultivation of the soil and of the local industries. The number of able-bodied men must always be kept up to a level sufficient for the growing of food crops and for local production.

Special attention must be paid to the important question of perpetuation of the race.

Women authorised to accompany their husbands, and their children, should be entitled to the provision in kind made for workers (housing, food, clothing, etc.). A system of bounties for babies should be instituted. Nevertheless, the departure of wives from their homes should not be encouraged, since experience shows that life in the compounds is unfavourable to the bearing of children and rapidly undermines the desire to have children. It would seem preferable to grant fairly frequent leave in order that family relations may be maintained.

For the same reasons, it is desirable that strict watch should be kept so that the workers are not absent for too long a period and do not become detribalised, acquiring a taste for the pleasures, and often the

vices, of town life and ending by forgetting their villages and their families.¹

It now remains to examine the general problems of recruiting as they present themselves in the principal French possessions, dealing firstly with labour demand and supply, and secondly with the methods and organisation of recruiting.

FRENCH WEST AFRICA

(1) *Labour demand and supply.* — The Native population of French West Africa, as shown by the census of July 1931, was about 14,000,000 and the average density was three inhabitants to the square kilometre. The difficulties of labour supply in French West Africa, however, arise more particularly from the distribution of the population in relation to the labour demand. To give but one example, the coffee and cacao plantations of the Ivory Coast are situated in the south, whereas the greatest density of population is in the north, in the Upper Volta.

French West Africa is essentially agricultural, the few industrial undertakings which exist being only ancillary to agriculture (dehusking of ground-nuts, manufacture of palm oils, and ginning of cotton), and it is especially in the development of Native production that an increase in agricultural production is being sought. The methods adopted vary considerably according to whether the object is better production of food crops or the improvement of products for export. The food products (sorghum, millet, maize, manioc) are produced by rudimentary methods and require large quantities of labour to obtain a relatively poor output; the Administration is endeavouring to train the Natives to become peasants after the model of the French peasant. Nevertheless, the principal problems of production arise in connection with the crops introduced or industrialised by the Europeans, the so-called "main products". ground-nuts, oil palms, cacao, coffee, cotton, bananas, sisal. The ground-nut, on which the entire economic system of Senegal is based, is grown exclusively by the Natives, and in the case of cacao, the Native plantations far exceed in area those of the Europeans. The cultivation of cotton on irrigated land is the subject of a comprehensive plan of the Administration, which provides for the irrigation of wide areas by controlling the Niger floods.

¹ MINISTÈRE DES COLONIES. INSPECTION GÉNÉRALE DU SERVICE DE SANTÉ. *Instructions relatives à l'établissement des prévisions d'emploi des crédits sanitaires supplémentaires des emprunts coloniaux.* Paris, 1931.

Although the policy of the Administration is definitely directed towards favouring Native production, there is a strong movement of opinion in France in favour of European plantations in the form of big agricultural concessions. The supporters of this movement base their arguments on the inferiority of Native methods of production. According to a return made in 1930, 1,205 concessions had been granted to Europeans in the West African colonies. The area of these concessions exceeded 147,000 hectares and the area cultivated reached nearly 66,000 hectares. More than half of the land thus conceded was on the Ivory Coast. Up to the present however, the number of wage-earners does not appear to exceed 60,000.

(2) *Methods and organisation of recruiting.* — Of the wage-earners of French West Africa some are employed by undertakings situated only at a short distance from their villages, others migrate spontaneously to the centres of employment (for example, the Navetanes, who emigrate from the Sudan to Senegal), while others come from distant areas for employment by the European planters; only these last can be considered as being "recruited".

In addition to the regulation of these movements of labour and the application of the policy of safeguarding health and increasing efficiency mentioned above, the Administration has regulated emigration by a Decree of 24 April 1928. The policy of the Administration is likewise directed towards organising the rational utilisation of the labour supply.

The general limitation of recruiting, as laid down in the local legislation, is based on the following principle: "The normal supply of labour available in a district consists of the able-bodied workers who may be considered to be available when the various requirements of the local community have been met". This principle, which is quoted from the Instructions of 29 March 1926, recognises that the first call upon the Native labour supply must be to meet the requirements of the local community, that is to say, the provision of the food supply of the Natives and the growing of crops raised for export by the Natives. From the resources available there must next be set aside the contribution furnished by the population for military recruiting, both for the first contingent, which serves under arms, and for the second contingent, which is employed only on the execution of public works. It is therefore only the labour available after these various claims have been met which may be distributed among private undertakings and public works. The distribution of the available labour is

made in practice by the Administration, which under section 36 of the Decree of 22 October 1925, is empowered, in exceptional cases and in order to carry out specially urgent works of public utility, to suspend temporarily the engagement of workers by private persons; nevertheless, the Circular of 29 March 1926 emphasises that this is to be done only in exceptional circumstances arising out of cases of *force majeure* and that the suspension may only be temporary.

The distribution of the supply of labour available for private undertakings is determined by the Labour Offices set up under the Circular of 29 March 1926. Chapter VIII of the present report gives some details of the organisation of these Offices and of their possible rôle in a free placing system in the colony.

TOGOLAND UNDER FRENCH MANDATE

As the production of the territory is mainly agricultural and there is a relatively dense population, private undertakings have not yet experienced any serious difficulty in recruiting labour. Up to the present labour has been furnished by the Cabrais-Lossos group, and in particular by the Sokode district, which has a density of population of 60 inhabitants per square kilometre, and moreover includes the healthiest and most vigorous part of the population.

The number of Natives employed under contract in the service of private undertakings of an agricultural character rose between 1924 and 1926 from 399 to 1,193. Since the latter date, however, private undertakings have become more and more averse to the employment of contract labour, which has been found unsatisfactory (particularly owing to the frequency of desertion) and which is fairly expensive. They have therefore preferred to engage labour on the spot from day to day. According to the annual report for the year 1931, the system of recruiting for employment under contract was tending more and more to disappear owing to the abundance of supply of free labour, which was then much in excess of the demand.

CAMEROONS UNDER FRENCH MANDATE

(1) *Labour demand and supply.* — The density of population is low in the Cameroons. According to the census of 1931, the Native population numbered 2,223,802 and the able-bodied adult male population at the same time was estimated at 675,000.

The Native labour requirements of the Cameroons may be classified as follows: (1) Labour for public works and public services. (The construction of the Central Railway required from 1922 to 1927 an average of 6,000 workers continually on the job. When the Railway had been built as far as Yaunde the High Commissioner decided that it was necessary to allow the Native population a period of rest, and that all recruitment for the railways should be avoided until 1939). (2) Labour for portorage for administrative purposes. (In 1926 the number of days of portorage required was 32,654). (3) Labour for private undertakings. The demand in this category increased steadily up to the end of 1929. In 1926 there were 18,000 Natives in the service of Europeans (8,000 employed on big plantations and 10,000 working in the forests). The number rose to 25,000 at the end of 1930, but in 1932 it fell to 17,846, or 2.7 per cent of the able-bodied adult male population.

According to the annual report for 1931 " the supply of labour was sufficient not only to satisfy existing requirements, but also to ensure the economic development of the territory ". The report for 1932 even mentioned that there was a certain amount of unemployment amongst the Natives.

(2) *Methods and organisation of recruiting.* — At the beginning of the French occupation the system of official recruiting for the benefit of private persons established by the German Administration in the Cameroons was in theory maintained, but in practice it was very little used, and recourse was had to it only for portorage.

A system of supervision of recruiting was established under an Order of 30 December 1916. Under this system, a permit by the Commissioner of the Republic was necessary for the recruiting by a private person of Native workers intended to be taken away from their homes. The conditions imposed on the recruiter had to be stated in the permit (sections 53 and 54). Later, the Administration decided to adopt a labour policy which would reconcile the education of the Native (by accustoming him to work) with respect for individual liberty (by the abolition of forced labour for private purposes, and the requisitioning of workers only by and for the Administration itself and in the public interest). These principles were given expression in the Decree of 4 August 1922 which, with an amending decree of 9 July 1925, forms the basis of the labour legislation of the Cameroons at the present time.

These Decrees differentiate between three kinds of recruiting:

(1) The recruiting of workers for undertakings in the sub-district

where the worker's home is situated. Recruiting of this kind is entirely free, neither previous authorisation nor subsequent visa by the Administration being required. Contracts are optional, but if they are entered into the employer is bound to observe the requirements as to sanitary conditions and medical care prescribed by law. (2) The recruiting of workers for undertakings situated outside the home sub-district. Recruiting of this kind is subject to three conditions: firstly, prior authorisation by the Commissioner of the Republic; secondly, medical inspection of the worker, on the basis of which a certificate is given specifying the kind of work on which he may be employed; and thirdly, the execution of a contract, this being compulsory. (3) Individual and collective emigration beyond the borders of the territory. This question will be dealt with in Chapter VII of the present report.

FRENCH EQUATORIAL AFRICA

(1) *Labour demand and supply.* — The population of French Equatorial Africa is extremely sparse, the general census of the population taken in July 1931 showing an average density of 1.4 inhabitants per square kilometre. The tribes are generally under-nourished, and live in deplorable sanitary conditions. The distribution of the population over the various districts of the colony is very unequal.

Since the War there have been heavy demands for labour for two main purposes. The first of these was the construction of the Congo-Ocean Railway, for which the Administration had to recruit labour intensively, not only in the colony of the Middle Congo through which the line runs, but also in the other colonies of the group, in order to keep the labour force at a constant level of 20,000 to 25,000 men. This was a case of requisitioning labour for public works of general utility, and therefore does not come within the scope of the present report. Secondly, the development in Europe of the plywood industry has raised a problem of labour supply of some gravity for the future of French Equatorial Africa, since to meet the requirements of this industry it is necessary to obtain 300,000 to 400,000 tons of *okumé* from the forests of the Gabun, and this has led to the mobilisation in the Gabun of a force of forestry workers which in 1929 numbered 25,000 or more than one quarter of the able-bodied male population of the colony.

It was in 1920 that the recruiting of workers for forestry undertakings began to assume proportions which rendered necessary the

intervention of the local Administration. The *Consortium des grands Réseaux des chemins de fer français* had obtained, under a Decree of 19 July 1920, two forestry concessions over a total area of 188,000 hectares. By an Order of 18 February 1921, the proportion of men who might be engaged in the colony was fixed at one-third of the able-bodied male population, and a Decree of 4 May 1922 prescribed more precise rules for the engaging of workers and for the settlement of disputes between employers and workers.

The permits to recruit for forestry undertakings, which in 1921 covered only 2,167 Natives, rose year by year, and in 1928 covered 8,000 workers. In 1929, the total number of workers employed on forestry undertakings in the Gabun was about 25,000, of whom 8,000 belonged to the coastal district and neighbouring areas, while 17,000 came from inland districts. At this stage, the local Administration recognised that this number could not be exceeded without endangering the family and tribal life of the Natives. In a circular addressed to the district officers, Governor Deitte pointed out that "in certain districts at the present time the male population remaining is just barely sufficient for the work of growing food crops" and that "if the withdrawal of men from these districts continued, there would be a risk of famine in the near future".

The authorised recruiting was therefore reduced in 1929 to 4,000, in 1930 to 3,800, and in 1931 to 2,700 men. By the end of 1930, about 16,000 workers were employed. The economic depression has reduced very considerably the demand for labour, many forestry undertakings having been closed down, but a rise in prices on the timber market would certainly bring about a return of the difficulty of balancing the requirements of colonisation with the labour resources of the Gabun, the male population of which numbers only 127,000.

As a means of solving the problem of labour supply, the local Administration has experimented with the transplanting of entire native villages, including men, women, children, the aged and infirm, but the experiment does not seem to have given the results hoped for.

(2) *Methods and organisation of recruiting.* — Recruiting for places outside the colony being forbidden, the only form of recruiting dealt with by the regulations is local recruiting. Under a Decree of 4 May 1922, this recruiting is supervised by the administrative authorities: "recruiting of workers, whether for works

of public utility or for private undertakings, is carried out with the permission and under the supervision of the authorities" (section 4).

The first section of the same Decree provides that labour is free throughout the territory of French Equatorial Africa and that Natives may accept employment as they please, either by the task, or as daily workers, or as permanent workers. The Administration has to satisfy itself, at the time when the contract is concluded, that the worker has freely entered into the engagement. Employers desiring to recruit labour are required to obtain prior authorisation from the administration. This authorisation, which is given by the Lieutenant-Governor, must specify (a) the district in which the recruiting may take place, and (b) the number of Natives to be recruited (Order of 18 February 1921). The total number of Natives to be recruited is restricted under the provisions of an Order of 11 February 1923, the first section of which stipulates that the Lieutenant-Governor of each colony in the group must, before 1 December in each year, prescribe by Order (a) the sub-districts open for the recruiting of workers and (b) the number of adult men who may be recruited in each sub-district. Recruiting in sub-districts not open or in excess of the number of workers fixed for a sub-district is prohibited.

In accordance with this general provision, the Lieutenant-Governors of each colony issue an Order every year specifying the areas open for recruiting and the number of workers who may be recruited. In addition, in the case of the Chad district, an Order of 30 June 1931 provides that the total number of workers recruited for work outside the district must not exceed 5 per cent of the adult male population. In the Middle Congo an Order of 5 November 1930 provides that Natives working in their district of origin shall not be deemed to have been recruited, and the limitation of numbers therefore does not apply to this class of Natives.

MADAGASCAR

(1) *Labour demand and supply.* — In Madagascar, as in other African colonies, the labour supply is affected by the sparseness and unequal distribution of the population. This numerical deficiency is aggravated on the high plateaus by the unfitness for work of very many Natives, who are physically weak, live in unsatisfactory conditions and are debilitated by seasonal diseases and epidemics. In the extreme south, the primitive tribes have

more resistance, but are unaccustomed to work and their intermittent activity is confined to the raising of indispensable food crops. Of the 3,600,000 inhabitants of the island, of whom 995,000 pay taxes, only 100,000 work for others; the remainder cultivate their land or are craftsmen working in their own stores or workshops. The substantial development of public and private undertakings in recent years, however, has led to an increasing demand, while military recruiting, and the emigration of 3,000 Antandroy who have been put at the disposal of Reunion, have still further diminished the poor labour resources of the colony.

This situation has occasioned some concern to the European undertakings established in Madagascar, although the returns show hardly more than 100,000 hectares in the possession of Europeans. The first scheme of the Administration immediately after the abolition of slavery in Madagascar in 1897 was to bring in workers from abroad; the introduction of some thousands of Chinese coolies did not, however, give good results. Later experiments were no more successful, but it does not seem that the Administration and the colonists have abandoned the idea of having recourse to foreign labour. Proposals have been made for the introduction of Indo-Chinese, Chinese, Indian and even Polish workers, but it has more and more been realised that it is hardly possible to rely upon labour coming from abroad to make good the deficiency. Considerable use has been made of taxation as a means of impelling the Native to engage in the service of Europeans, but the general opinion is that nothing more can be done in this way. The raising of the wages of the workers is a measure the efficiency of which has often been contested by the colonists, but which has been formally recommended by Mr. Marcel Olivier, former Governor of Madagascar, who writes: "A policy of fair wages is desirable, in the first place because it is in accordance with equity, and in the second place because there is no other way of breaking the vicious circle; for the Native to work he must have needs, but if he is to have needs he must work".¹

It is being increasingly realised that the surest, if not the most rapid, means of increasing the available supply of labour would be the preservation of the Malgache race. The population appears to be stationary.² The French Administration has already done much to combat venereal disease, tuberculosis, plague and alcoholism.

¹ MARCEL OLIVIER: *Six ans de politique sociale à Madagascar*.

² In 1918 and in 1926 the death rate exceeded the birth rate.

In spite of the difficulties, certain writers are of opinion that the problem of the labour supply is not serious. Mr. Cherrier, for instance, writes as follows:

“The Native population is at the present time more than sufficient to satisfy the labour requirements of all the colonists, who are not yet very numerous. But employers will have to change their methods. It must not be imagined that the Malagasy is wilfully opposed to all work. Able-bodied and vigorous men are to be found in all the provinces who would accept employment willingly if they found it to their advantage to do so, and if they were not afraid of losing their independence or their liberty. The employer who offers a reasonable wage and is able to win the sympathy and respect of his men will never have any difficulty in finding on the spot the labour that he needs. But for this it is necessary to be just and not to demand the impossible. In particular, promises given must be scrupulously respected, and the worker must be allowed to go home when his time has expired, without any attempt being made to detain him.¹

(2) *Methods and organisation of recruiting.* — The legislation of Madagascar differentiates between recruiting for abroad and recruiting for employment within the territory. The first is dealt with by a Decree of 6 May 1903 concerning Native emigration, which is analysed in Chapter VII of the present Report.

Operations of recruiting and engaging Native workers for employment in Madagascar itself, whether within or outside their district of origin, may normally be carried on throughout the colony by employers or their European agents, subject to supervision by the local authorities, but without prior authorisation (sections 1 and 2 of the Decree of 22 September 1925). Recruiting may take place with or without the assistance of the regional labour office. The intervention of this office is optional, but it would appear nevertheless that it is playing a more and more important part and at the present time is of considerable importance in the recruiting of workers. The regional office serves as an intermediary between European or Native employers and Native workers; it “facilitates” and “supervises” the recruiting of labour for public and for private undertakings. According to the definition of their functions given in the legislation, these offices should act as employment exchanges; in practice, however, they do not receive applications for employment and the initiative in recruiting is taken by the employer, who makes use for the purpose of Native recruiters, who are paid on a capitation basis. The Administration gives assistance to the colonist who needs labour

¹ A. CHERRIER: *La législation concernant le travail indigène à Madagascar*. 1922, p. 94.

in a form which it is not easy to define; it would seem, however, that under all the labour policies which have been applied in Madagascar, the Administration has always considered it a binding duty to assist private undertakings to obtain labour.¹

INDO-CHINA

(1) *Labour demand and supply.* — The average density of the population in Indo-China is relatively high in comparison with that of the French African possessions, but the distribution of population does not correspond with the principal zones of colonisation. The density of the population is greatest in Tonkin and in North Annam². In the east of Cochin-China, which has always been the principal area of European colonisation, the average density is barely 10 inhabitants per square kilometre. The development of large undertakings, therefore, soon raised the problem of recruiting labour, particularly from 1925 onwards. There were a number of difficulties in the way of transferring labour to the districts in which it was needed: difficulties of communication (the Trans-Indo-China Railway, begun in 1898, is not yet finished); differences in climate, race and customs; the mentality of the Annamites who form nearly two-thirds of the population of Indo-China, and who are very reluctant to leave their own villages.

The following figures will give an indication of the increase in the requirements of the European undertakings in Indo-China. During the year 1926, 16,331 workers were registered as arriving at Saigon en route for the Cochin-China plantations. In 1927 concessions of 200,000 hectares were granted for the cultivation of rubber, and applications for 90,000 hectares were still under consideration. On 4 April 1927, there were more than 34,000 workers in Cochin-China. The number of workers recruited in Tonkin and in North Annam for undertakings in South Indo-China reached its maximum in 1928 (18,000, as against less than 4,000 in 1923). Following upon the campaign against recruiting which began in 1928 and the reorganisation to which it gave rise and which will be mentioned later, recruiting for the plantations of South Indo-China fell steadily. The number of recruits fell sharply from 18,000 in 1928 to 7,500 in 1929. In 1930, 11,000 coolies were recruited, but 8,000 were repatriated to Tonkin.

¹ Further details on this point will be found in Chapter IV of this Report.

² Average density in Tonkin, 64 (but there are 600 inhabitants per square kilometre in Nan-Dinh and only 3 at Lai-Chan): average density in Annam, 38.

During the first half of 1932, 11,000 coolies were repatriated to Tonkin and there were no new engagements. An important factor in this cessation of recruiting has been the world economic crisis, and in particular the fall in the price of rubber, which has arrested the development of plantations in South Indo-China. Activity is now confined to working the old plantations and keeping the newer ones in order. Labour was required more particularly for clearance work and extensions; at the present time, therefore, it is easy to meet all the demands for labour.

The class of labour to which the preceding observations apply (coolies from Tonkin and from North Annam employed on the plantations of Cochin-China and South Annam) constitutes, however, a relatively small minority of the population in wage-earning employment. Even at their highest, the numbers in this class never reached 40,000¹, whereas there were in 1929 more than 221,000 wage-earning Natives in Indo-China. This total was made up as follows: 81,188, or 36.8 per cent., employed in agricultural undertakings; 86,624, or 39.2 per cent., employed in commercial and industrial undertakings, and 53,240, or 24 per cent., employed in mining undertakings.

(2) *Methods and organisation of recruitment.* — In Tonkin and Annam the density of population is such as to enable all the undertakings to recruit without difficulty as many free workers as they require without having recourse to written contracts. Except in the case of skilled workers, who are generally paid by the month, the workers are hired by the day or by the task, without entering into a written agreement and without any intervention by the Administration. In Cochin-China and in Cambodia the labour supply is made up of (a) Natives or Asiatic foreigners recruited on the spot, these being generally free workers, that is to say, engaged by verbal agreement in accordance with the custom of the locality; (b) Natives of Indo-China recruited outside Cochin-China, or Asiatic foreigners, the latter being Chinese or Javanese recruited either in their country of origin or in other countries of the Indo-Chinese Union. This second class of labour is not allowed into Cochin-China or Cambodia unless provided with a written contract. It is utilised by large-scale agricultural undertakings, but industrial undertakings—particularly when connected, as in the case of the sugar industry, with agricultural undertakings—are also beginning to make use of it. It will be seen, therefore,

¹ Exactly 37,000 on 1 Jan. 1930.

that the greater part of the Native labour employed in Indo-China (180,000 out of 220,000) is not subject to any regulation. It was not until January 1931 that a beginning was made in regulating this free labour¹.

The system of contract labour does not apply to more than 40,000 workers. It was introduced mainly to protect labour recruited in one of the territories of the Union (Tonkin or North Annam) for employment in another territory of the Union (South Annam or Cochin-China), or for employment outside Indo-China (New Caledonia and the New Hebrides). It is only in the case of this class of contract labour that there can be said to be any recruiting, properly so-called. When this recruiting began to be practised on a large scale there were theoretically several possible systems of organising and supervising it. In the first place, the Administration might itself have undertaken the responsibility of recruiting operations by establishing official employment offices. This method, which would have given rise to a risk of placing the administrative authorities at the service of private interests, was rejected. Another method would have been to group the planters on the Netherlands system into an association which would set up machinery for recruiting the necessary workers. Few as they were in number, the planters were unable to arrive at any agreement. There remained the method of entrusting recruiting to private emigration agencies. It was this method which was adopted from the beginning in Indo-China, and which still remains the rule.

At the end of 1928 a violent campaign was begun against the wholesale recruiting of Tonkinese coolies, which was alleged to entail many abuses—deficient housing arrangements in very unhealthy regions resulting in high mortality among the workers, failure on the part of certain employers to carry out their contracts fairly, exactions by Native “corporals”, etc. This campaign culminated on 9 February 1929 in the assassination at Hanoi of Mr. Bazin, Manager of the General Labour Office, which was the most important of the private emigration agencies. The Indo-Chinese Administration came to the conclusion that it was necessary to regulate recruiting, and accordingly an Order was issued by the Governor-General on 16 July 1930 regulating the occupation of labour recruiter. Under this Order, supervision by the Administration applies only to the employees of the emigration agencies who actually effect recruiting. The heads of emigration agencies

¹ Décrée of 19 Jan. 1933 regulating the free labour of Natives and assimilated Asiatics.

are required to furnish the Administration with a list of all their agents, and must immediately discharge any of their employees whom the Administration indicates as "undesirable". It would seem that all recruiting abuses have not disappeared since the institution of this reform, and that they will cease only when emigration becomes really free. The Indo-Chinese Administration has on several occasions shown that it is not disposed to regard the system of contract recruiting as being anything more than a transitional arrangement, and that "the requirements of progress and the interests of colonisation must lead as far as possible to the adoption of methods of engagement approximating to the system of free labour, and to fostering a spontaneous movement of emigration"¹. The Administration counts on the completion of the Trans-Indo-China Railway to bring about a change in the existing system by facilitating the speedy and cheap transport of Natives from the overpopulated regions of the North who wish to migrate to the South.

NEW CALEDONIA

(1) *Labour demand and supply.* — At the census of 1931, the population of New Caledonia included 28,502 Natives and 11,448 coloured immigrants. These latter were composed of Indo-Chinese and Javanese employed in agricultural, industrial and mining undertakings. As the result of the economic depression it has been necessary to reduce the number of these immigrant workers, whose services were too costly, and during recent years many have been repatriated.

In the districts where the Native population has remained relatively dense—mainly on the east coast—the colonists are able to obtain a considerable amount of Native labour; but the Natives are more and more cultivating the soil for themselves, making use for this purpose of large areas held in common. They produce a substantial quantity of coffee, have planted coconuts, and are increasing their food crops. "This supply of excellent labour is thus diminishing, and the Administration must use its great moral influence in order to obtain for the colonists the seasonal labour which they need for the coffee and cotton harvests".²

¹ *Compte rendu sur le fonctionnement de l'inspection générale du travail 1929-1930.*

² Note by Governor Guyon on New Caledonia in *Cahiers coloniaux de l'Institut colonial de Marseille*, of 19 March 1928.

(2) *Methods and organisation of recruiting.* — The legislation concerning labour recruited in Indo-China for employment in New Caledonia will be mentioned in Chapter VII in connection with Indo-Chinese emigration; it is only necessary here to refer to the regulation of the recruiting of Natives of New Caledonia (or of the small islands grouped with New Caledonia). This regulation is based primarily on two Orders of 8 August 1882 and 4 January 1917.¹ The Administration of New Caledonia is peculiar, though resembling that of French Equatorial Africa, inasmuch as in regulating labour contracts the Administration itself prescribes the conditions of the contract for the Natives, who are not competent to bargain with the colonists, and itself organises the recruiting of labour, local conditions being such as to make it impossible for the present to consider the elimination of recruiting.

Natives who are recruited in the Loyalty Islands and the islands to the north of the colony for Numea are collected in depots until they are provided with employment. The Immigration Commissioner draws up a list of all the workers thus available, which is posted up in the Immigration Office. The colonists are allowed to visit the Natives in order to make contracts with them (engagements may be made only for the colony and the smaller islands). Natives who have not been engaged after the lapse of a period of three months from their entry into the depot are sent back to their tribes (sections 3 and 6 of the Order of 8 August 1882).

Under an Order of 4 January 1917, Natives of the Loyalty Islands or of New Caledonia may be recruited, under very much the same conditions, for employment exclusively in the harvesting of coffee, cotton, or any other similar crop. The maximum duration of these contracts, however, may not exceed four months, beginning with the day on which the worker arrives at the place of work.

This legislation has been supplemented by an Order of 4 October 1929, prescribing the conditions of employment of Native labour of Oceanic race in New Caledonia and the smaller islands². Under this Order the Chief of the Native Affairs Service is responsible for centralising at Numea the written engagements and re-engage-

¹ Books 1 and 2 of the metropolitan Labour Code were applied to New Caledonia by a Decree of 6 Oct. 1927, but this Decree affects neither Javanese and other Asiatic immigrants, nor French subjects and protected persons who have not been naturalised. In effect it concerns only white workers.

² Cf. *Journal officiel de la Nouvelle-Calédonie*, 1929, p. 836.

ments of Natives who have agreed voluntarily to accept employment, for supervising, with the assistance of the "syndics" of Native affairs, the strict execution of the contracts, and for taking the necessary measures for the repatriation of the Natives. The duration of these engagements may not exceed two years.

Mention must also be made of the fact that, under an Order of 11 April 1933¹, there has been set up a labour office which is responsible, amongst other duties, for the introduction and repatriation of emigrant workers and their registration, engagement and distribution among the employers. An employment office for non-immigrant labour has been attached to this office.

§ 5. — India

The Report of the Royal Commission on Labour in India, 1931, shows that there is still a considerable amount of unregulated recruiting in India for various industries². The fact that the vast majority of the population of India lives in villages made it necessary for organised industry, whether plantation, factory or mining, to draw its labour originally from the rural population.

It seems unlikely that, except in the jute industry, active recruiting now takes place to any extent for perennial factory industries, though labour is still engaged through jobbers and labour contractors, while seasonal factory industries draw on local rural labour. On the other hand, there is still considerable recruiting for the coal mines by contractors, *sardars* or recruiting agents, who visit the villages, make advances to intending workers, pay railway fares and conduct the workers to the place of employment.

There is also unregulated assisted Indian immigration for employment in the rice mills of Burma. The recruiting is done by overseers known as *sub-maistries* or their agents, who make advances to intending recruits of sums which are usually about 25 rupees but may be as much as 100 rupees, and bear all the expenses to Rangoon. The workers undertake to refund the advances and expenses, but in practice they remain indebted to the *sub-maistries* for the rest of their lives.

As regards plantations in India, a distinction is to be drawn between those in north India (Assam and Bengal) and those in

¹ Cf. *Journal officiel de la Nouvelle-Calédonie*, 14 March 1923.

² Recruiting in Southern India for Malaya and Ceylon has been mentioned above under *Malaya and Ceylon*.

the south (Madras Presidency and Coorg). In the south, the plantations are situated close to densely populated areas (Madras Presidency) on which they can draw for their workers. On the other hand, the planters of the north have to obtain recruits from long distances and have to face competition for labour from the coal mines of Bengal and Bihar and Orissa, the jute industry of Bengal, the cotton industry, the railways and the oil field of Assam.

This factor of distance and the heavy cost of recruiting it entails account for the fact that planters of the north have generally endeavoured to secure permanent settlers. On the contrary, the plantations of the south, like the factories, rely on the regular flow of labour which is migratory in character and returns to its village every year for periods from one to three months and in some areas even twice or three times in the year. Nearly all the plantations in the south secure workers through labour suppliers called *kanganies* or *maistries*, who receive money from the planters free of interest for the purpose of paying advances to individual labourers or families willing to go to the estates. The amount of the advances is estimated at an average of 15 rupees for each labourer.

The main planting areas in the north are in the Province of Assam, in Darjeeling, the Terai and Dooars in Bengal. In Darjeeling, the bulk of the plantation labour consists of descendants of immigrants from Nepal and Sikkim who have settled in the district. Organised recruiting is prohibited in Nepal, but voluntary migration continues in spite of restrictions. Over 90 per cent. of the workers live on the gardens and many of them have lived there from their birth. As for the Terai, apart from a few gardens which employ Nepali labour, estates in this area are worked like those in the Dooars by aboriginals from Chota Nagpur and the Santal Parganas in the Province of Bihar and Orissa. Most of the labour is permanently settled on the gardens, only a small percentage returning annually to their homes. Recruiting is carried on by workers (*sardars*) as in Assam, but unlike recruiting for this Province is subject to no official control.

ASSAM

(1) *Labour demand and supply.* — Assam is the most important planting area in India and the tea gardens in this Province alone account for more than half the total number of labourers working on plantations in British India. The tea estates are located in

two valleys known as the Assam and the Surma Valleys. The former, that is to say the northern valley, is the more important of the two areas and employs twice as many workers. Most of the tea gardens have been laid out on land which seventy years ago was uncultivated and uninhabited jungle, and for the expansion of the industry it has been necessary to import fresh labour continuously. The Surma Valley was able to secure a certain amount of labour either locally or from adjoining districts in Bengal; the most important recruiting area for both valleys, however, is at present Chota Nagpur and the Santal Parganas, whose aboriginal population is preferred for work on the tea gardens. In addition, substantial numbers are brought from Bihar and Orissa, the United Provinces, the northern districts of Madras and the eastern and northern districts of the Central Provinces, while recruiting has been carried on as far as Bombay. The distances from which the workers come are clearly illustrated by the statement that although it is possible nowadays to go by rail from any Province right up to the head of the Assam Valley, most recruits spend at least a week, and some much more, on the journey.

The following table shows the number of immigrants imported into Assam during the years 1927 to 1932:¹

Labourers	1927-1928	1928-1929	1929-1930	1930-1931	1931-1932
Men . . .	24,124	37,161	33,510	30,245	23,247
Women . .	10,027	16,548	14,117	13,362	14,986
Children .	8,694	15,191	12,169	9,912	12,764
Total :	42,845	68,900	59,796	53,519	50,997

(2) *Methods and organisation of recruiting.* — Owing to distance and inaccessibility recruiting for Assam has always been expensive. The high cost of recruiting was in turn responsible for the introduction at an early stage of a system of indentured labour and penal sanctions for breach of contract, intended to ensure that a labourer, on whom considerable sums had been spent, would actually remain a certain number of years in the service of the employer who had recruited him. Indenture, however, increased the disinclination of labourers to go to Assam, from which they

¹ *Report on Immigrant Labour in the Province of Assam for the year ending 30th June 1932.* Shillong, 1932.

had little chance of returning without the assistance of an employer and which was for long regarded as unhealthy. Consequently, and owing also to the expansion of the industry, the price of a labourer rose and there grew up a class of contractors and professional recruiters known as *arkattis* many of whom were ready to adopt any device to secure the high prices obtained for the supply of labourers. Grave abuses became common in the recruiting areas and particularly in Chota Nagpur.

In order to put a stop thereto, the Government finally prohibited in certain recruiting areas all recruiting for Assam except by actual workers (*garden-sardars*) and made it illegal for anyone else to assist, induce or even persuade a recruit to go to Assam. The Local Governments of the areas in question were authorised even to prohibit recruiting for Assam altogether. Moreover, a special body known as the Assam Labour Board was set up with a view to the better control of recruiting. Since the enactment of these provisions, which it should be borne in mind had no counterpart elsewhere in India, the grave abuses of the past appear to have been successfully held in check, but, according to the Royal Commission on Labour in India, the credit for this is largely due to the tea industry itself. The abolition of indenture and penal sanctions has also contributed towards the creation of better conditions.

Although the Royal Commission recognised that during the last years recruiting for Assam has enjoyed comparative immunity from abuses, it considered the arrangement described above as unsatisfactory. Its criticism may be summed up as follows: It is undesirable that Local Governments should have power to prohibit recruiting altogether in particular localities, for in that way inhabitants of over-populated areas may be prevented from improving their conditions by emigrating and labour in the recruiting area from strengthening its position. If it is feared that grave abuses will arise it should suffice to invest Local Governments with adequate powers of control over recruiting. By restricting recruiting to a single method, namely, recruiting through *garden-sardars*, the Government of India, instead of drawing nearer to the free movement of labour which it had always held as the ideal, made a step in the opposite direction. Moreover, the *sardari* system, although perhaps in theory the safest for the recruits was not always the best in practice. In fact, workers were sometimes sent down as *sardars* after spending only a few days on the estate; in such cases they were actually petty recruiters who went through

the formality of being sent up to Assam as workers only to satisfy the conditions of *sardari* recruiting. The *sardari* system was also quite inadequate for the needs of the industry and was obviously unworkable when new areas had to be opened for recruiting and when new gardens were being developed. Finally, since employers were debarred from employing licensed contractors, they endeavoured to secure labour by appointing a large number of workers as *garden-sardars*, namely about 7 per cent. of the total number of adult labourers per year. About one-half of this number, however, did not bring back one single recruit to the garden and roughly one-third did not even return at all. Consequently, the average was about one recruit per *garden-sardar*, while the average cost per recruit was as high as 150 rupees.

In the opinion of the Royal Commission on Labour, another striking defect in the law in force at the time of its enquiry was that, in the recruiting districts, no propaganda nor the rendering of any assistance to emigrants was allowed except by *garden-sardars*. Thus, for instance, recruits who offered themselves voluntarily for service in Assam could not be forwarded by the local agents of the tea industry before a *sardar* came down to give them the required assistance.

With regard to the official control of recruiting, the Commission observed that it did not meet the requirements which any scheme of control should meet, namely, that of giving a reasonable prospect for eliminating itself. As a matter of fact, it enhanced the cost of recruiting and consequently increased temptations towards abuses. This in turn increased the difficulty of removing control and so furnished the justification for its retention.

For this and some other reasons, the Royal Commission on Labour advocated the enactment of a new Recruiting Act for Assam and prepared a scheme for it. It was on the basis of this scheme that in 1932 the Tea Districts Emigrant Labour Act was enacted.

In the new Act, which came into force on 1 September 1933, and by which all previous regulations concerning recruiting for Assam were repealed, a sharp distinction is made between the stage of actual recruiting and that of the forwarding of recruits to the tea gardens. For either, the Act contains a set of rules. These rules, however, do not apply *ipso jure*. On the contrary, in principle, both recruiting and forwarding are free and subject to no control. The Local Government of a recruiting Province, however, is authorised, subject to the control of the Government of India, to declare any area within such Province to be a *controlled*

emigration area. Thereupon the provisions of the Act relating to forwarding apply to that area. This implies that all persons who are to proceed to Assam with assistance have to be taken to the depôt of a licensed local forwarding agent, who is held to forward them by prescribed routes on which provision for food, shelter, etc. must be made by employers and medical supervision can be exercised. In a controlled emigration area, the actual recruiting operations continue to be uncontrolled. This is altered only when a Local Government declares any controlled emigration area, or any part thereof, to be a *restricted recruiting area*. In such area, both recruiting and forwarding are subject to the provisions of the Act. So far as recruiting is concerned, this implies that employers are prevented from recruiting otherwise than by certificated workers (*garden-sardars*), licensed recruiters or licensed local forwarding agents.

By the system prescribed by the Act, Local Governments are put in a position to apply to the whole or part of the territory submitted to their jurisdiction, according to the exigences of the case, the most suitable form or extent of control. They are no longer authorised, however, to prohibit recruiting for Assam altogether. Moreover, in order not to hamper the movement of labour from one district of Assam to another, it is no longer possible to restrict recruiting in Assam itself.

Another main principle of the Act is that every emigrant labourer, after three years from the date of his entry into Assam, shall have the right to be repatriated with his family at the employer's expense. In the opinion of the Government of India, as well as of the Royal Commission on Labour, the offer of this right will aid in removing a serious obstacle to the flow of suitable labour to Assam, while the existence of an adequate supply of such labour will go far to remove the conditions which make it undesirable at present to dispense with control over emigration.

While the Act abolishes the Assam Labour Board, it provides for the appointment of a Controller of Emigrant Labour who is subject to the Government of India and responsible for (a) enforcing the law relating to repatriation in Assam, (b) supervising forwarding agents, and (c) supervising conditions in the recruiting provinces, where his powers will be limited to *inspection and advice*. The charges are met by the tea industry through a cess of somewhat similar character to that raised under the previous regulations for the Assam Labour Board.

The Act only applies to cases in which material assistance is

given to proceed to Assam; unassisted emigration is entirely free. Moreover, the Act only applies to labourers bound to work on wages not exceeding fifty rupees a month, but not as a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan.

Finally, the provisions of the Act are intended to apply only to emigration for work on tea plantations in the first instance; but power is retained to extend its application to other industries in Assam and to districts other than the tea districts specified. This power can be used if labourers are imported for other forms of industry, with a view to their transference to tea estates, or if the tea industry develops in other parts of Assam ¹.

§ 6. — Italy

In none of the Italian Colonies is recruiting of Native labour for agriculture and industry subject to any special regulation. The labour situation is described as follows by an authoritative Italian writer ²:

“Save in periods of exceptional demand, the offer of labour by the local population or by small bodies of immigrants coming across the frontiers from neighbouring countries is sufficient. Consequently it is easy for employers and workers to get into touch with one another and is almost always done directly.”

As regards the manner in which labour is obtained in cases where the workers cannot be engaged on the spot, the same writer states:

“Usually the district authorities, at the request of the employers, notify the chiefs of the tribes of the amount of labour required and, according to the information furnished, give or withhold their consent to the departure of the workers. The engagements are therefore entirely voluntary in character. Moreover, the district authorities see to it that no compulsion is exercised and intervene if necessary so as to ensure that different races and creeds are kept separate and that order and discipline are maintained amongst the groups of workers, who in any case are never very numerous.” ³

These general statements may be supplemented by more detailed information concerning Somaliland, where the question of Native labour supply appears to be of particular importance.

¹ “Statement of Objects and Reasons”, *Gazette of India*, March 12, 1932, Part I.

² E. CUCINOTTA: *Diritto coloniale italiano*, 1933, p. 488.

³ E. CUCINOTTA, *loc. cit.*

SOMALILAND

Italian Somaliland, which has an area of about 500,000 square kilometres, is sparsely populated. The number of Natives hardly exceeds a million and that of Europeans has not yet reached 2,000. The Somalis raise cattle and live a nomadic or semi-nomadic life in the interior of the country, constantly moving from place to place in search of pastures and watering places. The freed slaves, however, are agriculturists and thus form a stationary population. These freed slaves are the only part of the population from whom the European colonists may hope to obtain regular and continuous labour, but they are few in number. According to a very rough estimate there are 135,000 along the Uebi-Scebeli, 25,000 along the Juba and 40,000 in the Dafet and Baidoa districts.¹

The principal European undertakings utilising Native labour are the company which works the salt pans of Ras Hafun in the north of the country and the agricultural concessions in the south, that is to say in the district of the Uebi-Scebeli and on the right and left banks of the Juba. The salt pans of Ras Hafun employ 900 native workers ².

The agricultural development of the country is restricted so far to the five following districts: the Afgoi zone, the district of Scidle (village of the Duke of the Abruzzi), the district of the Genale, the Havai zone and the Juba zone. The crops grown on these concessions are generally bananas, cotton, sugar cane, ground nuts, maize, castor oil and sesame ³. The total area of the concessions in these five districts exceeds 60,000 hectares, of which more than 28,000 hectares have been developed.

These agricultural undertakings require a considerable supply of labour. Many thousands of Natives are engaged "through the active intervention of the European and Native authorities" under special contracts, generally by the month. For the Genale concessions alone, in which at that date the area of cultivated land was more than 11,000 hectares, the number of workers engaged in 1929 was as high as 6,000 a month, and these came from the most distant districts.⁴

¹ *La Nuova Italia d'oltremare*, 1933, p. 201.

² *Idem*, p. 1673.

³ "La Somalia italiana", *Bollettino di informazioni e notiziario economico*, 1933, pp. 19-21.

⁴ G. MONDAINI and A. CABBINI: *L'evoluzione del lavoro nelle colonie e la Società delle Nazioni*, 1931, p. 219.

The chief measure adopted to ensure the supply of labour for the European agricultural undertakings has been the settlement of workers on the concessions by means of special labour contracts on a share basis, which will be described in Chapter III. As regards the success of the methods adopted to attract labour to the concessions, the following passage from the report by the Governor to the Minister for the Colonies for the year 1928-1929 may be quoted:

“ In the beginning, even though the workers had accepted labour contracts they came down to the concessions reluctantly. Now, however, they come in crowds, as happened in June, singing and dancing and headed by the tricolour flag. After they have worked their time in the Genale zone, they return to their homes and plant their shambas with maize, durrah, sesame and uembe, thus belying the reputation (of being bad workers) which had been fastened upon them.”¹

As has already been observed, there is no regulation of recruiting properly so-called, but a regulation requires employers to effect the engagement of industrial workers through the labour office attached to the District Commissariat, at which all such workers are registered².

§ 7. — Japan

SOUTH SEA ISLANDS UNDER JAPANESE MANDATE

The South Sea Islands under Japanese Mandate consist of more than 1,400 islands and reefs, scattered over an ocean area extending some 1,200 miles from North to South and 2,500 miles from East to West.

In the three census years 1920, 1925 and 1930, the Native population as a whole showed a slight increase from 48,505 to 48,798 and to 49,695. In the same periods the Japanese population increased from 3,671 to 7,430, and to 19,835. On the Island of Yap, the Native population fell from 8,338 in 1920 to 6,486 in 1930.

The main economic products of the islands are sugar, copra and phosphates. Native labour is employed only in the Angaur phosphate mines, which are worked by the Government; about 400 Natives are so employed. A few of them are accompanied by their families and may be regarded as more or less permanent workers. The majority are men recruited under yearly contracts.

¹ G. MONDAINI and A. CAGRINI, *loc. cit.*

² Decree of the Governor, dated 31 July 1930, No. 8220.

§ 8. — Liberia

The Republic of Liberia, situated on the West Coast of Africa, has an area variously estimated at from 36,500 to 43,000 square miles and a total population estimated at about 1,000,000, of whom some 12,000 are American Liberians, descendants of the American Negroes who colonised the country in the first part of the nineteenth century. The principal export crop is coffee, which is apparently grown mainly by the Natives; palm kernels, palm oil and piassava, which are obtained from the forests, are also exported. Until the economic crisis, rubber had been exported in increasing quantities since 1925 by the Firestone Rubber Company.

No information is available to show the extent of the demand for labour for the farms of the American Liberians. Until the depression led to the cessation of development by the Firestone Rubber Company, the only plantation undertaking operating on a large scale in Liberia, there was a potential demand for labour for that company which, according to Mr. Firestone, might eventually reach 300,000 men¹, although the maximum number actually employed was 18,000, a figure which had fallen in 1930 to 10,000 and has since been further reduced². The extent of the Firestone concession, which was granted for 99 years, was one million acres, or any lesser area to be selected from time to time during the period; in 1931, 48,000 acres had been cleared and planted.

The Office has no information regarding the methods of recruiting labour for the farms of American Liberians, but the International Commission of Enquiry of 1930 found that forced labour recruited by County Superintendents and District Commissioners for public purposes had in many instances been diverted to private use on farms and plantations of high Government officials and private citizens. An Act of 1912 had provided for the establishment of a Labour Bureau under the Department of the Interior, the object of which was to "regulate and supervise the labour situation, to procure labourers and to protect the rights of such labourers engaged by Liberians and foreigners within the Republic". The Act further provided for the witnessing of contracts between employers and workers, labour agents, the encouraging of chiefs to furnish labour for farming and other undertakings, the keeping

¹ R. L. BUELL: *The Native Problem in Africa*, Vol. II, p. 833.

² *Report of the International Commission of Enquiry into Slavery and Forced Labour in Liberia*, 1930, p. 83.

of records, and the safeguarding of wages, allowances and other conditions of employment. It was also provided that "nothing in the Act shall be construed to compel labourers to engage themselves to work under the provisions of this Act only". According to the International Commission of Enquiry, however, the Labour Bureau was not made operative until 1926 "when it was regarded by the Government as a means of regulating and keeping under control the labour supply from the interior upon which the new Firestone Plantations promised to make large demands".

The method of recruiting by the Bureau was through labour agents designated by the President of the Republic. Fees were payable by employers for each labourer engaged—the fees not to be recoverable from wages—and commission was payable to chiefs and headmen for each labourer furnished to a labour agent. The Firestone Company, however, also reserved to itself the right to recruit labour through its own agents and to engage labour which offered itself spontaneously. In the case of labour supplied by Government, the Company agreed to pay one cent to the Government, one-half cent to the paramount chief and one-half cent to the chief for each day's work performed by each man supplied. In 1927, the labour so supplied appears to have been about 10 per cent. of the total labour supply.

Commenting on this system, the International Commission of Enquiry said:

"With the official recruiter's fee and the opportunity to regulate the labour, an opportunity for abuse is presented, which could easily be carried out in the name of the Government. In some sections this has been done with great effectiveness, and a situation created in which the Company in order to get labour at all must meet many curious and difficult requirements of the District Commissioners. In the Cape Palmas area, in particular, the attractiveness of the bonus to recruiters for Fernando Po labourers of £10 per labourer must of necessity, place local developments at a considerable disadvantage."¹

The recruiting of labour for Fernando Po, which is mentioned in this quotation, will be described in Chapter VII of this Report. It will suffice here to mention that the International Commission found that

"a large proportion of the contract labourers shipped to Fernando Po and French Gabon from the southern counties of Liberia have been recruited under conditions of criminal compulsion scarcely distinguishable from slave raiding and slave trading, and frequently by misrepresenting the destination."²

¹ Report, p. 82.

² Report, p. 84.

Recruiting for Fernando Po and other foreign countries is now prohibited by law in Liberia. As regards the present extent or methods of recruiting for employment within Liberia, the International Labour Office has no recent information.

§ 9. — Netherlands

NETHERLANDS INDIES

(1) *Labour demand and supply.* — According to the census taken in October 1930, the Netherlands Indies had a population of about 61,000,000 inhabitants, of whom 41.7 millions were in Java and Madura and 19 millions in the Outer Provinces¹. Taking Java and Madura together, the density of the population reaches 314.5 inhabitants per square kilometre, a figure which places these islands amongst the most densely-populated countries in the world. In the Outer Provinces, on the other hand, the average density is only 10.7 inhabitants per square kilometre.

Owing to the density of the population, recruiting is unnecessary in Java, but the Outer Provinces must rely very largely on recruited labour. As there is ample land available in the Outer Provinces, the population enjoys an economic independence which it has no desire to change for wage-earning employment. In many districts this independence has been increased owing to the fact that, in addition to the raising of food crops, Native cultivation of products for export (rubber, pepper, copra, coffee) has developed very considerably. It is therefore only for temporary work and in order to satisfy an immediate need for cash that the Natives of the Outer Provinces sometimes accept employment in European undertakings. At the end of the year 1932 there were in the Outer Provinces 562 undertakings employing a total of 263,458 Chinese or Javanese workers.

(2) *Methods and organisation of recruiting.* — The recruiting of Natives of Java for the Outer Provinces, which was begun about 60 years ago by the planters of the East Coast of Sumatra in order to make good a dearth of Chinese labour, was effected up to 1911 exclusively by professional recruiters. These were

¹ The Netherlands Indies are divided into two divisions: the first includes the islands of Java and Madura; the second comprises the Outer Provinces, that is to say the whole of the rest of the Archipelago, and in particular the islands of Sumatra, Borneo, Celebes, the smaller Sunda Islands (Bali, Lombok, Timor, etc.), the Moluccas, and the western part of New Guinea.

Europeans who paid a staff of Native "touts", and their profits were directly proportionate to the number of persons recruited. The employers themselves were dissatisfied with the results of professional recruiting. The labour enlisted by the professional touts belonged to the dregs of Native society and, moreover, this method of recruiting was expensive owing to the premiums paid to the touts and the profits taken by the recruiter.

Nevertheless no other methods were adopted until 1911. In that year the tobacco planters of Deli (East Coast of Sumatra) established at Samarang (Java) an organisation for engaging coolies with the help of workers who had already completed some years of service. This new method was found to be inadequate, and there consequently developed alongside it a form of recruitment by employers known under the name of *Eigen Werving*. This system also involved using the services of touts, but it differed favourably from professional recruiting in that, being carried on by the employers themselves, it was not directed towards the making of profits, and, moreover, the personal interests of the employers provided a certain guarantee against the development of abuses.

But though *Eigen Werving* proved itself efficient, it did not lead to the immediate suppression of all abuses. This was largely due to the fact that professional recruiting continued in existence and involved competition which led to some extent to the employment of subordinate staff of a doubtful character. It was in order to eliminate this competition that professional recruiting was finally abolished in 1930. For similar reasons the two large organisations engaged in *Eigen Werving* have decided to equalise recruiting charges, and for some time past an amalgamation of these organisations has been contemplated. A Committee, set up at the beginning of 1930 to supervise recruiting, presented in 1931 a report containing suggestions for the improvement of *Eigen Werving*. If these suggestions were adopted the persons in charge of the depots would in future receive a fixed salary, and they would know their recruiters personally. The recruiters would operate only in fixed districts, and it would therefore be to their advantage to acquire a good reputation amongst the population. The Committee recommended that the new methods should be tried in a particular district, namely the province of Banjumas (Central Java). As, however, the demand for workers for the Outer Provinces has almost entirely ceased owing to the economic depression, the making of this experiment has been deferred to a more favourable occasion.

Recruiting by workers, which dates back to 1911, only attained any substantial development a few years before the crisis. As far as the engagement of workers under contracts with penal sanctions is concerned, this system is practised by the V.E.D.A.¹, a joint organisation of the planters of Deli and other planters of the East Coast of Sumatra. In consideration of the fact that recruiting is well conducted by this organisation, it enjoys privileges in connection with the conclusion of contracts of engagement with the workers recruited.

An important stage in the development of recruiting for undertakings in the Outer Provinces was the abolition on 1 July 1927 of the supervision of the engagement of free workers, i.e. workers who do not sign penal sanction contracts. Up to that date the pivot of the system of protection provided by the law was the fact that recruits from Java and Madura could not be put on board ship before they had been presented to an official. The purpose of this provision was to prevent Javanese recruited clandestinely for work under penal sanctions in the Outer Provinces from being embarked on board ship without having come under the control of the authorities of Java. This prohibition, however, was not effective for its purpose, owing to collusion between the workers recruited and the recruiter and also to the difficulty of effectively policing the whole length of the coast of Java. On the other hand, the measure was to some extent an obstacle to the development of spontaneous emigration of the Javanese.

In abolishing the supervision of the engagement of free workers, the Administration also desires to facilitate the development in the Outer Provinces of a free market for labour, so that labour under penal sanctions might be gradually replaced by free labour, and to encourage the flow of the excess population of Java to the underpopulated parts of the Archipelago. Consequently, since 1927, free workers embarked at any point on the coast of Java for the Outer Provinces are not subject to the provisions governing recruiting². As regards workers under penal sanctions, however, it was considered that the special conditions of their employment necessitated the maintenance of the system of supervision of engagements. To achieve this, while maintaining the new principle of free embarkation, the new law included a provision that the

¹ *Vrije Emigratie van Deli Planters Vereeniging, en Algemeene Vereeniging van Rubberplanters ter Oostkust van Sumatra.*

² *Verslag van de Arbeidsinspectie voor de Buitengewesten 1927*, p. 6.

first contract under which a Javanese agrees to work under penal sanctions in the Outer Provinces must always be concluded in Java.

Except by authorisation of the Governor-General, it is forbidden to recruit unskilled workers (coolies) or more or less skilled workers (toukangs) in Java for employment abroad in private undertakings or public works, and this authorisation is never given except in respect of Dutch Guiana and a few foreign territories to which there is a fairly regular flow of emigration from the Netherlands Indies, namely, the Straits Settlements, the Federated Malay States, Sarawak, Northern Borneo, New Caledonia and Cochin-China.

Recruiting for abroad was for many years effected under the professional recruiting system. Since 1921, however, the administration of Dutch Guiana has entrusted its recruiting to the A.D.E.K., the employers' recruiting organisation (*Eigen Werving*) established by the planters of the East Coast of Sumatra, and as a result of the abolition of professional recruiting in 1930 recruiting for the non-Dutch colonies has likewise been transferred to the two *Eigen Werving* organisations operating in Java.

The foregoing remarks apply to the recruiting of workers under penal sanction contracts. It is not yet known whether recruiting will still be entrusted to the *Eigen Werving* organisation in the event of foreign countries desiring free workers in future, a situation which may very probably arise since in most of the British territories in which Javanese workers are employed the system of penal sanctions has been abolished for Netherlands Indian workers as for others.

The number of Netherlands Indian workers engaged under contract for employment abroad fell from 5,113 in 1928 to 3,260 in 1929, 75 in 1930 and 43 in 1932.

The labour recruited abroad for employment in the Netherlands Indies is almost exclusively Chinese and their employment is limited primarily to the tobacco plantations of Deli (East Coast of Sumatra), the tin mines of Banka and Billiton and the *panglongs*¹.

The Chinese workers for the Deli tobacco plantations were recruited originally in the Straits Settlements, and more particularly at Singapore and Penang, by Chinese brokers. So many abuses occurred that, when the British authorities in 1876 appointed a Protector of Chinese at Singapore and an Assistant Protector at Penang, all contracts of Chinese engaged for Deli had to be concluded before these officials. The abuses continued, however, owing to the practice of substitution and to the lack of co-operation

¹ Small undertakings for felling timber, sawmilling and charcoal burning.

among planters which strengthened the position of the Chinese brokers as against their customers. It was not until 1888 that co-operation between the planters became effective and that a special body, the Tobacco Planters Society, was set up to deal with Chinese immigration.

Parallel with this recruiting in the Straits Settlements, which continued as a subsidiary source of supply up to 1899, recruiting developed in China itself, and it was not long before this took the form of recruiting by workers. This system afforded better safeguards against abuse and was less expensive than utilisation of the services of brokers. Nevertheless, it appeared to be very difficult to prevent the system degenerating into a disguised form of professional recruiting; in fact, many former workers chosen by their employers because of their special aptitude for recruiting made the engagement of workers their principal task and for this purpose were continually travelling between China and Sumatra. Furthermore, the Chinese head foremen on the plantations were financially interested in the recruiting and this gave rise to abuses. The Deli Planters Society endeavoured over a long period of years to put down these abuses, and it was not until 1930 that it was able to declare in its annual report that professional worker recruiters had disappeared. This improvement was perhaps due very largely to the falling off in the demand for new workers. Among the steps taken by the Society to secure the reversion of recruiting by workers to its normal character mention should be made of the obligation imposed on planters affiliated to the Society to send a minimum percentage (5 per cent.) of their best workers to China every year for the purpose of making the conditions of work on the Deli tobacco plantations as widely known as possible. It may be added that in 1920 the Society transferred from Swatow to Hong-Kong the organisation set up for the purpose of recruiting labour in China¹.

Until recently Chinese coolies for the tin mines of Banka were engaged through professional recruiting agencies. In 1930, the management began to experiment with recruiting by workers, collaborating with the Deli Planters Society and making use of the organisation of that Society at Hong-Kong. The first results of the experiment have been satisfactory². In the case of the tin

¹ H. J. BOOL: *De Chineese Immigratie naar Deli*, 1903; *Gedenckboek van de Deli Planters Vereeniging*, 1929; *Jaarverslagen der Deli Planters Vereeniging*, 1928 to 1932.

² *Jaarverslag Deli Planters Vereeniging*, 1931, p. 71.

mines of Billiton, the semi-private, semi-State company (*Gemeenschappelijke Mijnbouw Maatschappij Billiton*) which works these mines always recruits its workers in the same districts of China, and through the constant coming and going of workers has been able to establish such close relations with the recruiting field that it has only to make known its requirements of labour in order to be sure of a sufficient number of applications from workers.

Recruiting for the *panglongs* takes place as a rule at Singapore. It is still in the stage of professional recruiting, the workers being engaged in the "shops", small eating-houses where unemployed Chinese workers are housed and fed until the proprietor succeeds in placing them with some employer in return for repayment of the expenses he has incurred.

For several years the employment of Chinese coolies has shown a tendency to diminish, particularly in the Deli tobacco plantations where a considerable number of them have already been replaced by Javanese. This tendency has been accentuated by the coming into force of the regulations concerning the gradual replacement of the penal sanction system by the free labour system under the Coolie Ordinance of 1931. Persons coming from abroad who desire to enter the Netherlands Indies are required as a general rule to pay a sum of 150 florins, and this sum is payable by free workers but not by workers who are to be employed under penal sanctions. The result is that the immigration of free workers is much more costly than that of workers under penal sanction contracts, and the more free labour is extended the more expensive it will be for employers to bring in new workers from abroad. For this reason the Deli tobacco planters, who have abandoned penal sanction labour entirely since 1931, have definitely ceased all recruiting in China as from 1 January 1934. It would appear that at Banka also the Chinese returning to their own country will be replaced by Javanese.

DUTCH GUIANA

Dutch Guiana is concerned in the question of recruiting only inasmuch as it is a country in which workers recruited abroad are employed. Recourse was had to foreign labour when, after the abolition of slavery in 1863, the freed slaves left the plantations to go to the towns or to settle down in the country districts as independent cultivators.

Large-scale agriculture has met with serious difficulties (plant

diseases and low prices) and the number of plantations has steadily fallen. In 1931 there remained 58 plantations, of which four were sugar estates employing altogether 3,694 workers under contract and 3,727 free workers. The others were coffee plantations growing rice, maize, cacao, bananas and oranges as subsidiary crops. The labour employed by these plantations amounted at the end of 1931 to 2,598 workers under contract and 3,569 free workers.

In 1863 the recruiting and transport of the workers required to meet the needs of the plantations after the abolition of slavery was left to the employers, the Government confining itself to encouraging immigration by means of premiums. This policy did not give satisfactory results and in 1872 the Government decided itself to undertake the organisation of the immigration of workers. This step had in any event become necessary, since the planters wished to make a trial of Indian workers and the British Government had adopted the policy of authorising emigration from India only when the administration of the country of employment itself undertook the recruiting and transport of the emigrants. Since 1872 therefore the emigration of labour to Dutch Guiana has been a matter almost entirely for the authorities, and although the regulations concerning the private importation of workers do not seem to have been repealed they have long since ceased to be of any practical interest.

The first contingent of Indians arrived in the Colony in 1873. Javanese were recruited in addition from 1890 onwards, and since the stoppage of Indian emigration in 1916 Javanese have taken the place of Indians as workers engaged under contract. Since 1921 the administration of Dutch Guiana has entrusted the work of recruiting to the A.D.E.K., the employers' recruiting organisation (*Eigen Werving*) set up by the planters of the East Coast of Sumatra. The number of Javanese workers who left for Dutch Guiana rose from 1,691 in 1927 to 2,308 in 1928, and fell to 506 in 1929. The immigration of Javanese workers under contract came to an end in 1929 owing to the economic depression, and for the same reason the experiments in bringing in Javanese peasants as settlers and free workers which were made in 1930 and 1931 have not been continued ¹,

¹ E. SNELLEN: *De aanvoer van arbeiders voor den Landbouw in Suriname*, 1933.

§ 10. — Portugal

The colonial possessions of Portugal comprise Angola, Mozambique (Portuguese East Africa) and Portuguese Guinea on the African mainland, the islands of San Tomé and Príncipe and the Cape Verde islands of the African coast, Goa and other settlements in India, part of the island of Timor in the Pacific, and Macao in China. Recruiting problems apparently only arise in the African colonies; according to the information in the possession of the Office, there is no recruiting in the colonies in Asia and the Pacific, and the Native Labour Code of 1928 does not apply in these territories. Nor does there appear to be any recruiting in the Cape Verde islands, and the following pages will therefore refer only to the colonies on the African mainland and the islands of San Tomé and Príncipe.

The Native Labour Code of 1928 applies to the Portuguese African possessions generally¹, subject to the regulations and instructions for the better adaptation of the Code to the conditions in each colony which the Governors of the colonies are authorised to issue under section 428, on condition that such regulations and instructions do not modify or run counter to the principles and provisions of the Code. The detailed provisions of the Code regarding recruiting will be summarised in the relevant chapters of this report, but it appears desirable to give here a general outline of the recruiting system provided for in the Code.

The 1928 Code abandoned the principle of the moral and legal obligation to work which had formerly been the underlying principle of Portuguese Native labour law and substituted for it that of the moral obligation "to procure the means of subsistence by labour and thereby to promote the general interests of mankind". The Code prohibited the imposition or the exaction of compulsory or forced labour for private purposes, without prejudice to the discharge of the aforesaid moral obligation, and provided that the Government should ensure to the Natives full liberty to choose the work which suits them best. Where the work they choose is employment under contract, the Government reserved to itself the right "to exercise benevolent supervision and tutelage in respect of their work under contract of employment".

¹ For an account of the Portuguese Native labour law in force before the application of the 1928 Code, cf. INTERNATIONAL LABOUR OFFICE: *Forced Labour, Report and Draft Questionnaire*, pp. 114-118 and 206-209. Geneva, 1929.

The recruiting of Native workers was placed by the Code under the supervision and inspection of the colonial Governors acting both directly and through the curators and local administrative authorities. The Governor of a colony may temporarily suspend recruiting in any area for employment in another area of the colony or prohibit recruiting for employment outside the colony for economic reasons or reasons of Native policy or of public health; he may also suspend temporarily all recruiting licences throughout the colony or in any part thereof.

Subject to certain exceptions, every person desiring to recruit must hold a licence; the nature of the licence, as well as the amount of the annual fee and of the security to be deposited, varies according to whether it is granted to persons recruiting on their own behalf, to agents of companies recruiting for employment within the colony, to general agents recruiting for employment by others within the colony, to agents of companies authorised to recruit for employment outside the colony, or to assistant recruiting agents or private recruiting agents. Licences are valid for one year, and are renewable; they may be refused or cancelled under certain circumstances. All authorities are bound to facilitate the operations of recruiters, provided that the latter procure Natives to enter into contracts of employment by lawful means and in an honest manner, but they are forbidden to recruit directly for private employment.

It is of particular interest to note that the Portuguese Code, while authorising the grant of licences to professional recruiting agencies, limits in principle the number of such agencies to three in colonies not divided into districts, or to two in each district in colonies divided into districts. Moreover, the Code makes special provision for the formation of recruiting companies and recruiting and emigration companies by the owners of agricultural, industrial and commercial undertakings and landowners. Except in Mozambique, only one recruiting and emigration company, i.e. a company recruiting workers for employment outside the colony, may exist in any colony. Recruiting for foreign employment, whether by such companies or by agencies, is governed by the provisions laid down in the relevant inter-colonial agreements, treaties or conventions.

This short general account of the recruiting system laid down in the Native Labour Code for all the Portuguese African colonies may be supplemented by a few notes on the available information concerning the demand and supply of labour in each colony and the methods and organisation of recruiting.

ANGOLA

The colony of Angola has an area of about 1,200,000 square kilometres, and a Native population of about 3,000,000, or an average of 2.5 Native inhabitants to the square kilometre; the number of inhabitants of white race is about 40,000. The latter are mainly Portuguese colonists, who farm on a small scale on the high plateaux. In addition, there are a number of important large-scale agricultural undertakings producing coffee, cane sugar, cotton, palm oil, sisal, etc., fifty stock-breeding stations under European management, forestry undertakings, salt and diamond mines, and a number of industrial undertakings, including two large dried fish concerns.

The Native, of Angola are to a great extent independent cultivators. According to information published in 1933 by the Directorate of Native Service, and Affairs¹, the number of such cultivators was 589,260 and the extent of cultivated land over 1,000,000 hectares. The numbers of Native traders have been variously estimated at 5,500 and 49,000, while estimates of the number of craftsmen vary from 10,000 to 45,000. The Office has no information regarding the numbers of Natives employed as wage-earners, beyond the statement that the Lunda diamond mines employ 6,000, and a calculation that some 15,000 are employed by industrial undertakings². At the end of June 1926, the labour requirements of the Colony, as estimated by the High Commissioner, were 378,800³.

The Native Labour Code was brought into force in Angola by Colonial Decree No. 72 of 26 January 1929.

MOZAMBIQUE

The Native population of Mozambique was estimated in 1932 at just under 4,000,000, the extent of the territory being 771,133 square kilometres. The demand for labour comes mainly from the plantations, which produce copra, cane sugar, cotton, vegetable oils, maize, wheat, sisal, tobacco, etc. According to the Statistical Year-Book for 1932, the number of Natives in employment was 308,074; in addition, the number of Mozambique Natives working

¹ Cf. *Revista Portuguesa de Comunicações*, June 1933, Ano V, No. 93.

² Cf. *op. cit.* an estimate by Dr. Manuel Neves.

³ Cf. *Economic Conditions in Angola*, Report by the British Consul-General. 1929.

in South Africa and Southern Rhodesia, in September 1933, was 55,269 and 21,842 respectively.

The Native Labour Code was brought into operation in Mozambique by Order No. 1118 of 4 September 1930. Meanwhile, in preparation for the bringing into force of the Code, a Legislative Decree of 5 March 1930 had set up recruiting companies which were to receive subsidies to assist them in meeting any losses in working; with the creation of these companies, administrative assistance in recruiting was to come to an end completely. As regards the territories of the Mozambique Company, an Order No. 1019 of 21 December 1929 had provided that recruiting for employment in the territories of this Company should be limited to the districts of Tete, Mozambique and Cabo Delgado, and should be effected by the recruiting companies to be set up in these districts; the interests of the agricultural, industrial and commercial undertakings and of landowners in the territories of Manica and Sofala (territories of the Mozambique Company) were to be represented by the Native Labour Association of Manica and Sofala, which should conclude contracts with the recruited labourers and divide them among the employers requiring labour.

The agreements under which Portuguese East African Natives are recruited for South Africa and Southern Rhodesia will be summarised in Chapter VII. It should be added that labour is also recruited for the Portuguese colony of San Tomé under a *modus vivendi* concluded between the two Administrations (Decree of 9 March 1926).

SAN TOMÉ AND PRINCIPE

The islands of San Tomé and Príncipe are situated in the Gulf of Guinea, and their area is respectively 857 and 114 square kilometres. The total population is estimated at the last census at 59,000 inhabitants, of whom 53,969 were on San Tomé; these 53,969 included 19,751 Natives, 32,817 immigrant workers from Angola, Mozambique and the Cape Verde islands, and 1,401 Europeans. The principal product of San Tomé is cacao, but coffee, palm oil and a few other products are also exported.

The problem of labour supply has long been one of great difficulty in San Tomé, and has given rise to much controversy. Even at present, in spite of the fall in the production of cacao from 18,528 tons in 1929 to 10,516 tons in 1932, the Native population is unable to supply the necessary labour. Nevertheless,

the number of workers from Angola, Mozambique and Cape Verde fell considerably between 1929 and 1932, i.e. from 41,266 to 27,202. Taking advantage of the increased willingness of the Native inhabitants, owing to the economic crisis, to undertake wage-earning employment in public works and agriculture, the Administration is endeavouring to form a permanent labour force of about 5,000 from among the Natives. The Government Council of the Colony has by resolution also decided to settle Natives on State lands.

The Native Labour Code was brought into force in San Tomé and Príncipe by Order of 11 April 1930.

PORTUGUESE GUINEA

The area of this colony is 36,125 square kilometres, and the population at the last Census was nearly 344,000, of whom less than a thousand were Europeans and Syrians. The principal exports are ground-nuts and palm kernels. The Office has no information regarding the extent of the demand for labour or the total number of Natives employed; in 1927, 3,167 Natives were working under contracts of employment. Since the economic crisis, there would appear to have been some unemployment among the Natives, as the Administration has found it necessary, in order to prevent unemployed Natives drifting to the towns and vagabondage, to take steps by an Order of 6 June 1932 to control the movements of Natives within the colony.

The Native Labour Code was brought into operation in Portuguese Guinea by an Order of 24 December 1929.

CHAPTER III

RECRUITING AND THE PROTECTION OF NATIVE COMMUNITIES

It has already been shown in the preceding chapter that the scarcity of Native labour in some colonial territories has led the administrations concerned to take measures to avoid the dangers of excessive recruiting. The information given in that chapter also shows that these dangers may likewise arise in other territories where the absence of a constituted working class renders it necessary to recruit labour from peoples engaged mainly in the processes of a traditional economy. The Committee of Experts on Native Labour therefore considered that regulation of recruiting should comprise first of all a series of measures intended to protect Native communities against demands for labour in excess of their normal capacity to supply labour.

The importance of this problem and its difficulties have been well put by Mr. Octave Louwers, Secretary-General of the International Colonial Institute, in his commentary on the speech delivered by the Duke of Brabant in the Belgian Senate on the subject of the new tendencies of Belgian colonial policy:

“ It is hardly necessary to recall the circumstances under which, in the early days of industrial expansion, the labour necessary for mining and so many other undertakings, especially public works, had to be obtained. We had no working class; we had to deal with a sparse population distributed in scattered regions and frequently living far distant from the areas where labour was required. It was a population of agriculturalists, fishermen, hunters and pastoralists, who had never been in contact with our civilisation and who did not offer spontaneously to leave their traditional homes to take employment in areas which were often at a distance and where they would have to live under entirely new conditions.

“ It was therefore necessary to ‘ recruit labour ’, and this gave rise to serious abuses, from the humanitarian as well as from the social point of view. The death rate of the recruited workers was appalling, especially at the beginning. Taking account of all wastage from the time of recruiting until the end of the contractual period imposed on all these workers, it was calculated in the early days that the death rate was 50 per cent. and sometimes higher.

" The draining from the villages of those members of the population on whom its continuation depended and their transfer to centres where it was impossible for them to found regular families resulted in grave social and moral disorders.

" Measures were taken to improve the situation, but it nevertheless remained critical for a long time. It was only beginning to be relatively satisfactory when the crisis came.

" But even supposing that the Native population became completely adapted to a working life in the great mining areas, a state of things which would transform the greater part of the population of the colony into an industrial wage-earning class could hardly be considered ideal. The disadvantages, both from a political and social point of view, are obvious. Nevertheless, this is what would happen were the mining development of the colony to be continued on the same vast scale as
ast. " ¹

§ 1. — Regulation of the Demand for Labour

The Committee of Experts on Native Labour considered that the first problem to be dealt with was that of preventing such situations arising in colonial territories that demands for labour would become difficult to control. The regulation of recruiting is in this respect directly connected with economic development policy; while not losing sight of the essentially social objects of such regulation, it is impossible to ignore the possible repercussions of this policy. An argument often advanced by European undertakings when seeking the help of the administration to obtain the labour they require is that once the authorities have allowed them to commence development, they cannot be refused assistance in obtaining the labour without which their existence would become precarious if not impossible. It would therefore seem only prudent that Colonial Powers should examine colonial development programmes from the angle of the possible Native labour supply and regulate the pace of development accordingly.

The experience of certain territories shows that, if the pace of industrial or mining development in regions that are only sparsely populated by primitive peoples exceeds the capacity of these peoples to supply labour, a serious danger arises that pressure may be brought to induce the Natives to accept employment. Even if such pressure is forbidden by legislation, the fact that the individuals or companies desirous of recruiting Native labour are often possessed of considerable influence, and can secure by various means the assistance of the administration and of tribal chiefs,

¹ *Revue catholique des idées et des faits*, Nos. 40-41, 6 Jan. 1934.

tends to create a situation very similar in its effects to that of legalised forced labour.

This aspect of the question of recruiting is closely allied to that dealt with by the International Labour Conference of 1930 in the Recommendation concerning indirect compulsion to labour¹. The Committee of Experts took the question up again from the special angle of recruiting, and suggested that the competent authorities in colonial territories should only permit the establishment of undertakings or grant concessions under certain conditions, in particular the following: (1) that the granting of such permission will not be likely to involve any compulsion upon the communities affected to furnish the necessary labour; (2) that the political and social organisation of these communities will not be endangered by excessive demands for labour, even if the labour is offered voluntarily.

Evidence is not lacking concerning the extent to which the participation of Natives in the rapid development of colonial territories may involve compulsion; for example, an observer, speaking of the Belgian Congo, says:

“ In some regions, administrative pressure must be heavy in order to obtain from the Natives the produce and the labour they are expected to supply. The result is that it is impossible to foresee the end of the system, since it develops an artificial prosperity at the cost of increasing discontent among the Natives, who ought to be the first to welcome prosperity. The method of pressure is the one that seems easiest at the outset, but it does not take account of the essential nature of the problem. It defeats its own ends, and leads the Natives to revolt or exhaustion if it is maintained or intensified, or causes them to abandon the European undertakings if the pressure is slackened. . . .

“ We are caught more and more in the meshes of an economic system of which the least that one can say is that it is not based on an agreed collaboration between Natives and Europeans.”²

¹ Part I of this Recommendation is as follows:

“ The amount of labour available, the capacities for labour of the population, and the evil effects which too sudden changes in the habits of life and labour may have on the social conditions of the population, are factors which should be taken into consideration in deciding questions connected with the economic development of territories in a primitive stage of development, and in particular when deciding upon:

- “ (a) increases in the number and extent of industrial, mining and agricultural undertakings in such territories;
- “ (b) the non-indigenous settlement, if any, which is to be permitted;
- “ (c) the granting of forest or other concessions, with or without the character of monopolies.”

² Extract from a lecture given by Colonel Bertrand at the 14th University Social Week of the Solvay Sociological Institute, Brussels, Sept. 1932.

On the same point, Mr. Louwers has written:

"Let no one delude himself in this matter: the generalisation of European productive undertakings is inconceivable *at present* without compulsory labour. Congo labour legislation is based on the principle of free labour; but, in spite of the efforts of the authorities to secure the observance of this principle, private undertakings succeed in circumventing it with the connivance of Native chiefs. . .

"It should not be forgotten that the summary methods of recruiting that are sometimes still employed cause disturbances in the Native communities, lead to discouragement and create a state of mind that is not favourable for the re-establishment of a healthy birth rate." ¹

As regards the second aspect of the question, namely, the dangerous effects of excessive recruiting of Native labour on the political and social organisation of Native communities, the evidence, as will be seen later, is no less striking. Even if a Native population, attracted by the advantages of wage-earning employment, spontaneously offers labour to European undertakings, the wholesale departure of Natives, separated from their families, their villages and their tribes, is not without danger. Traditional ties are broken and are not replaced by other disciplines; demoralisation, fraught with far-reaching consequences, ensues. Missionary organisations often complain that their efforts to promote social and moral progress are fruitless amongst communities whose social organisation has been thus destroyed. It is evident that the question in its entirety cannot be dealt with within the scope of the present Report; but it is desirable notwithstanding to draw attention here to the problem and to the opinion now frequently expressed that time should be given for the development of social progress, particularly in regard to education and public health, in order to allow primitive peoples to adapt themselves more easily to economic evolution.

Colonial Governments are of course not unaware of these dangers, and the Government of the *Belgian Congo*, in particular, has taken definite measures to ensure that the pace of economic development shall be co-ordinated with the capacity of the Congo peoples to supply labour. At its session in 1925 the Belgian Congo Labour Commission laid down the principle that, in order to avoid the danger of destroying the sources of Native labour in the Congo, "the economic development of the Colony should proceed cautiously and in accordance with a programme laid down for each region by the Government". At its session in 1928 the same Commission devoted its efforts to the working out of this programme, dividing

¹ *Revue belge*, 4 Jan. 1928.

the Congo into "economic zones" in each of which, in accordance with a definite plan, a series of restrictions should be applied concerning recruiting and the granting of concessions.

§ 2. — Social Effects of Excessive Recruiting

The measures to which allusion has been made above aim at what may be described as the preventive regulation of the economic development of colonial territories in order to avoid a subsequent danger of excessive recruiting. Nevertheless, if this preventive policy does not produce the necessary results and the demand for Native labour shows signs of becoming too heavy, it may be necessary to take steps for the protection of the peoples concerned by limiting the extent to which recruiting may be permitted. No colonial administration can afford to ignore the possible effects of the withdrawal from Native communities of a more or less considerable number of adult males on the birth rate, the food supply and social stability.

The unfavourable effects of recruiting on the birth rate have been especially noted in certain parts of the *Pacific* where depopulation is a particularly serious problem. Thus Mr. H. C. Cardew, then Commissioner of Native Labour in the *Mandated Territory of New Guinea*, stated at the Conference of Missionaries at Rabaul in 1927:

"It is a well-established fact that when we close a district to recruiting, an increase in the population is shown at the end of a very few years."

Dr. Felix Speiser, writing about the *New Hebrides* in 1922, declared:

"The Natives who are recruited are lost as far as repopulation is concerned. . . . There are villages where every youth has left. . . . In S. Omba, numbers of young women have left to work on the plantations, and have only returned when they had passed the childbearing age."¹

Dr. Rivers, writing on *Melanesia* in general, says:

"Even in its improved form and although limited to Melanesia, trade in labour continues to act as a cause of depopulation."²

The effects of excessive recruiting are not confined to an abnormal lowering of the Native birth rate; the entire economic and social

¹ *Essays on the Depopulation of Melanesia.*

² *Op. cit.*

life of the village is endangered. The Commission despatched to *Northern Rhodesia* in 1932 by the Department of Social and Industrial Research and Counsel of the International Missionary Council, drew attention in its report to

“ the value of a general supervision of labour recruitment throughout the Protectorate, which would protect certain areas from an excessive draining of their man power and the resulting demoralisation of social, economic and tribal life.”¹

Mr. C. W. Coulter, one of the members of the Commission, expressed the following opinion:

“ One of the main obstacles to Native agricultural development is the absence of a large proportion of the able-bodied men. . . . The preparation for planting is left in the unaccustomed hands of women and children. . . . Preparation of the wooded land and planting is neglected, or the gardens are so reduced in size as to be insufficient to meet the needs of the family, and famine periods are extended or the worker on his return must turn over his wages and luggage for food.”

In an addendum to the report of the *South African Native Economic Commission*, 1930-1932, Mr. Lucas, Chairman of the South African Wage Board, quoted the following statement by Mr. Germond, Lecturer in Agriculture at the South African Native College at Fort Hare:

“ The absence of males from their homes during the greater part of the year is invariably reflected in the cultural operations of the land and the resultant low yields. Even while the responsible male times his visit home to coincide with the ploughing and seeding season, agriculture suffers. It allows of no preparatory cultivation nor does it enable him to take advantage of favourable rainfalls. It necessitates leaving to the women and to juniors the major part of the work. There can be no organised system of working. The standard of agriculture, therefore, is low and there can be no development. ”

The social effects are not less grave than the economic consequences. Mr. Coulter, in the report already mentioned, states that group integrity is broken down, parental control is relaxed and marital fidelity, both of the husband in his abnormal surroundings and of the wife in the village, is weakened.

In regard to British territories in *East and Central Africa*, the Commission which visited East Africa in 1928 to enquire into the question of closer union between the Mandated Territory of Tanganyika and the neighbouring dependencies, Kenya and Uganda, stated that it had

“ gained the impression that the way in which Native life is affected by labour requirements is a subject on which further careful study in all

¹ *Modern Industry and the African*, 1933.

the Eastern and Central African territories is most desirable. This study is required as much in the interests of the settlers as of the Natives, since injury to Native life must lead to the drying up of the sources of labour . . . ”¹

Among the less vigorous races of the Pacific, recruiting was formerly considered as the principal cause of disorganisation of Native life. One of the most recent of the accounts of the situation in *New Guinea* still finds it necessary to lay stress on the fact that

“ the danger of allowing an excessive number of the able-bodied men of a village to leave their community for work on plantations for a term of years is obvious. In the first place, it results in a tendency for the birth rate to decline. . . . In the second place, it has been proved that the prolonged absence of the most virile and healthy element in the village has an inevitable reaction on the Natives’ communal life, on village conditions as a whole and on such matters as native food-gardens. . . . Village life must be disintegrated by such wholesale withdrawals of its working element—and yet the whole scheme of Native betterment and prosperity rests on the continuation of village life.”²

These economic and social consequences have also a political aspect, more particularly in territories where the official Native policy is based upon the maintenance of traditional institutions. This aspect was not unobserved by the East African Commission of 1928, which pointed out that it is the duty of the Government

“ to ensure that the labour demands of non-Natives do not operate in such a manner as to prevent the proper development of Native society. . . . The whole structure of the Native policy which we have recommended would be endangered if the absence of Natives from the reserves were such as to interfere with the continuance of Native family and tribal life.”

Furthermore, Mr. Coulter, in the above-mentioned report of the Commission despatched in 1932 to *Northern Rhodesia* by the International Missionary Council, points out the inconsistency of

“ encouraging tribal integrity on the one hand under the system of indirect rule (for without tribal integrity no chief can successfully function) and on the other hand encouraging its disruption by the present chaotic economic system.”

Lastly, the grave effects of excessive recruiting observed in the *Belgian Congo* have been described by Mr. Pierre Ryckmans in his report on his investigations in 1930-1931 in the Congo-Kasai

¹ *Report of the Commission on Closer Union of the Dependencies in Eastern and Central Africa* (Cmd. 3243, 1929).

² *INSTITUTE OF PACIFIC RELATIONS: First Biennial Conference: Document distributed: Conditions of Labour in the Mandated Territory of New Guinea*, by Margot HENTZÉ and S. H. ROBERTS.

province. Mr. Ryckmans includes among the social consequences the poor condition of the villages, the inadequate cultivation, demoralisation and family disintegration, the ultimate results of which will be a lower birth rate and an increased death rate, until a degree of depopulation is reached which finally destroys the social equilibrium of the communities concerned. The absence of a certain number of men from a village directly affects the birth rate, but the indirect results are described as infinitely more serious, by the manner in which they affect the whole community:

“The workers return to the villages demoralised and infected with venereal disease. The women become infected and, as a result of sterility or successive miscarriages, are repudiated and fall victims to prostitution with the resulting spread of infection. Many men remain in the industrial centres. The disproportion between the male and female sections of the population is increased. The burden of agricultural work that must be done without the help of the men becomes increasingly heavy, all the more so as the men employed at short distances from their homes have to be supplied with food. Village life without the men becomes less and less attractive. The young women who are unable to marry at home are lured by the gains of prostitution to the industrial centres.”¹

§ 3. — General Limitation of Recruiting

The measures which have sometimes been taken for the general regulation of recruiting are of two kinds: first, the entire prohibition of recruiting either throughout the territory or in a part where it is particularly necessary; second, the limitation of recruiting either by restricting it to certain parts of the territory concerned or by fixing a definite maximum proportion of men who may be recruited.

Colonial laws supply several examples of the prohibition of recruiting. In *Nyasaland*, prohibition of all recruiting operations for service abroad is general. The Government's *Annual Report upon Native Affairs* for 1931 states that the “policy of this Government in regard to emigration is that the Native should be free to go where he will, without let or hindrance, but that recruiting for work outside the Protectorate should not be allowed”.

In the *Belgian Congo*, the division of the territory into economic zones has been completed by various Orders of Provincial Governors prohibiting recruiting temporarily in districts where further recruiting might affect the social equilibrium of the population.

Power is reserved to the administrations in the laws of many *British* territories to prohibit recruiting in certain districts. The *Northern*

¹ *Le problème de la main-d'œuvre au Congo belge*. Report of the Labour Commission, 1930-1931. Congo-Kasai Province. Reporter: Mr. P. Ryckmans, Brussels, 1931, pp. 54-63.

Rhodesia Employment of Natives Ordinance of 1929, for example, provides that "the Governor may, by notice in the *Gazette*, prohibit the recruiting or engagement by labour agents or employers of Natives within the territory or in any part thereof".

In the *Mandated Territory of Tanganyika*, the Recruitment of Labour Regulations, 1927, and similar regulations promulgated in 1929-1930, 1931 and 1933, prohibit or restrict recruiting in certain districts.

In the *Pacific Islands* restrictions with a view to safeguarding the local populations are not unusual. Under the *Solomons* Labour Regulation, 1921, the Resident Commissioner of the British Solomon Islands Protectorate may for any reason which may seem good to him prohibit either for a specified time or until further notice, the recruiting of Natives at any place or within any area named by him. Similar provisions permitting restrictions on recruiting are to be found in *Fiji*, the *Gilbert and Ellice Islands*, the *New Hebrides* (recruiting by British subjects), the *Mandated Territory of New Guinea* and *Papua*.

Orders for the closing or opening of areas to recruiting issued in the *Mandated Territory of New Guinea* in 1932 indicate the considerations which are taken into account. One district, closed on 31 August 1931 "on account of females of child-bearing age being in excess of virile adult males", was reopened on 31 October 1932 "as all available women of child-bearing age have now acquired husbands". A second district was closed on 31 August 1932 "in order better to combat the spread of leprosy among the Natives of this area". A third district was closed on 15 December 1932 "on account of decrease in birth rate and increase in death rate of the population".¹

Even when the legislation of British possessions contains no formal provisions of this kind, the administrations have powers to enforce prohibitions or restrictions by means of licences to recruit labour issued by the competent authorities, without which recruiting may not be undertaken.

In *French* African possessions, recruiting for employment outside the territory is usually prohibited, and conditions are laid down for recruiting for employment within the territory.

In *French Equatorial Africa*, the Lieutenant-Governor of each colony of the group has to fix by Order before 1 December each year (a) the districts open for the recruiting of labour; (b) the number of adult males who may be recruited in each district. In the Lake Chad Colony, an Order of 30 June 1931 also laid down that the total number of labourers recruited for work outside the territory might not exceed 5 per cent. of the adult male population.

In the *Mandated Territory of the Cameroons*, the Administration is required to specify the districts in which recruiting may be carried on without harmful effects, and to fix the maximum number of Natives who may be engaged.

In *French West Africa*, section 6 of the Decree of 24 April 1928 lays down that no workers may be engaged without the authorisation of the Lieutenant-Governor of the colony in which they are being recruited. Section 9 provides that licences to recruit labour may be refused, suspended or withdrawn in cases of grave abuse and whenever the economic or political situation of the colony renders such a measure

¹ COMMONWEALTH OF AUSTRALIA: *Reports to the Council of the League of Nations on the Administration of the Territory of New Guinea from 1st July 1931 to 30th June 1932 and from 1st July 1932 to 30th June 1933*, sections 39 and 69.

necessary. By section 10 it is provided that the number of Natives who may be recruited by private individuals and companies or agencies shall be specified in each case by the Lieutenant-Governor.

In *Madagascar*, recruiting operations may be suspended by Order of the Governor-General in certain areas for political reasons (section 2 of the Decree of 22 September 1925), though it does not appear that this power has been made use of since the Decree was promulgated.

In the case of the *Portuguese* colonies, section 140 of the Native Labour Code lays down that "the Government of Portugal on the recommendation of the Governor of a colony may temporarily prohibit the emigration of Native workers from part or all of the territory of the said colony whenever political or economic reasons render this desirable." Under section 34 of the Code, the Governor of a colony, "after hearing the curator thereof may temporarily prohibit the recruiting and emigration of Native workers from certain places in the colony to other places therein and establish labour reserve areas where the recruiting of workers for employment outside the colony is prohibited, whenever this is desirable for reasons of an economic character or in connection with Native politics or public health." Section 35 lays down that "for reasons of public order or in any other case of emergency, the Governor of the colony may order the temporary suspension of all recruiting licences throughout the colony or in specified regions thereof, and the taking of such measures shall not give licence-holders the right to claim or receive any compensation."

§ 4. — The Percentage System

In a few territories, the method has been adopted of limiting permission to recruit to a given percentage of the able-bodied males, calculated in relation to the total population of villages or districts. This practice, to which the Committee of Experts on Native Labour gave special attention, has been particularly developed in the *Belgian Congo*, as a result of the studies of the Labour Commission, of which it may be interesting to give here a short account:

As a result of sessions held in 1925 and 1928 and enquiries pursued in Africa in 1930 and 1931, the Belgian Labour Commission reached the following conclusions: At the outset it agreed that it was of primary importance to determine the proportion of labourers who could be taken from their customary surroundings for employments necessitated by the European occupation (State services, public utility works, transport, agriculture, commerce, industry, domestic service, etc.). The 1925 Commission accepted as a general opinion that without ill-effect there could be taken from the Native communities 5 per cent. of the able-bodied adult males for temporary employment at a distance from their homes, and a second contingent of 5 per cent. for local European undertakings where employment would not cause a breach in the relations between the workers and their families, such undertakings being situated within an approximate radius of two days' march from the village. In addition to this total contingent of 10 per cent. the Commission considered that approximately 15 per cent. of the able-bodied adult workers could

be employed within the Native communities for European undertakings on such work as short distance portorage, the cultivation of food and economic crops, the collection of natural products, etc., in which the Natives would not be permanently employed and would not be prevented from sharing in the tasks of the Native community and continuing their family life.

The subsequent researches of the Belgian Commission, and the enquiries made of the Administration and of the employers, confirmed the Commission in its opinion of the value of the percentages thus fixed, but led to the conclusion that the discrimination between the contingent recruited for employment at long distance and the contingent recruited for employment within two days' march from the village was unnecessary. A man who works for a year at a distance of 500 kilometres from his village loses touch with his customary life to a much less extent than a man who is absent for three years at a distance of 75 kilometres.

With this correction, the suggestions of the Belgian Commission may be summarised in the following general form:

The total recruiting carried out in any Native community should not result in withdrawing from the community a contingent in excess of 10 per cent. of the able-bodied adult males for employment beyond their villages. Natives working in their customary surroundings for European undertakings (short distance portorage, the cultivation of food and economic crops, collection of natural products, etc.), whose work does not prevent them from sharing in the tasks of the community and from living their family life, should not form an additional contingent in excess of 15 per cent. of the able-bodied adult male population.

At its 1925 session the Belgian Commission, in order to establish the calculation of the percentages, accepted as the normal composition of any community 1 adult man for every 3 women and children and, as the limit below which the relations between men and the remaining numbers of the community should not fall, fixed the proportion of 22.5 men (i.e. 25 less one-tenth) to 75 women and children. It was hoped that by maintaining this proportion a practical rule would be provided for determining the labour calls on a community and preventing successive recruitments of 10 per cent. where the purpose was to authorise only a total recruitment of 10 per cent. This rule, however, contained one fundamental flaw in that the number of men who could be recruited was determined by the number of children. Since the child population is generally adversely affected when an excessive percentage of the men is absent, the proportion between men on the one hand and women and children on the other rises, leading to the paradoxical situation of authorising higher labour calls on a community where the community is suffering from the absence of the men. During its recent studies the Commission found a means of correcting this miscalculation on the principle of respecting the normal proportion between the sexes. In reality, the proportion between the sexes (men plus boys to women plus girls) is generally more or less constant (in the Belgian Congo there are 100 male units for 103 female units). If this proportion is seriously disturbed by a deficit among the men, it may be concluded, if not necessarily that there have been excessive labour calls in the past, at least that family and social life has been affected and that a rest period is required.

The Belgian Commission thus considers that the formula

$$\frac{\text{women} + \text{children}}{1.03} - \text{boys}$$

gives the normal number of men in a community. Except in rare cases,

nine-tenths of the number of men determined by this simple arithmetical calculation should remain in the villages.

In a less developed form, this principle of percentages has been adopted by other colonial administrations. Thus in the *Gabon* colony of French Equatorial Africa, the limit of recruiting has been fixed by Decree at one third of the male adult population. In the *Mandated Territory of New Guinea*, on the other hand, the administration states that "when considering the question of the closure of any area to recruiting, regard is had to local conditions and to the proportion of adult able-bodied males who are employed under indenture in relation to the total population of the area. As a general rule, recruiting is not permitted in any area in which population figures show that the number of women of child-bearing age exceeds the number of adult males by 5 per cent."¹

In certain *French Colonies*, the administrations have concerned themselves not only with the importance of fixing recruiting percentages but also with the necessity of defining the social unit which should serve as the basis of calculation, and the selection of the individuals to be recruited. The following interesting suggestions, for example, are taken from an official document concerning labour conditions in the *Ubangi-Shari* colony of French Equatorial Africa:

"The administration has already regulated the recruiting of labour by planters by fixing the number of individuals which can be supplied by each district in proportion to the population. It would seem, however, that this is not sufficient, and that it is necessary to fix the proportionate number of persons which can be recruited *in each village*. It is really only by going to the cause of the trouble that may arise from recruiting that a remedy can be found. It is in the village, considered as the social unit, that Native life is disturbed when the elements of which it is composed are changed too abruptly by the departure of a proportion of those more able-bodied men who are the most important factor, by reason of the services they render to the community, in maintaining its force of resistance to disintegrating influences. Regulation should therefore be based on the village as the social unit if it is to be effective.

"In this connection, it would also appear necessary, after fixing the numbers that may be recruited, to consider the choice of individuals. It may not be a matter of indifference whether the recruit is a single man, a married man or a father of a family. If we wish to take useful action for the preservation and increase of the population, we cannot leave out of account the comparative value of the elements of which the village and the family are to be deprived.

"The objection may be raised that, if all these considerations are to be taken into account in connection with the recruiting of labour, the administration will have to intervene directly in all the operations preceding the engagement of a Native by an employer and that these operations will thus be greatly complicated. This is true; but however regrettable it may be we should not hesitate to accept the method with all its annoyances if it serves our end."

The Committee of Experts on Native Labour carefully examined these measures and particularly the Belgian method. The Committee considered that the general principle of limitation of

¹ *Report to the Council of the League of Nations on the Administration of the Territory of New Guinea from 1 July 1930 to 30 June 1931.*

recruiting by fixing percentages might be included among the principles to be recommended to the Government's attention, but that it would not be possible to propose definite figures. There are at present areas and even entire territories in which the economic organisation depends upon the employment, as wage earners and away from their homes, of numbers of Natives considerably in excess of the percentages fixed by the Belgian Commission. While much can be said in favour of adopting limits for permissible recruiting as close as possible to the percentages fixed by the Belgian Commission, there are also good reasons for not attempting to fix percentages which would not be accepted because their application would disorganise the economic system of some of the territories concerned. The experts' recommendations on the percentage question, which will be found at the end of the present chapter, was framed with these considerations in mind and within these limits.

§ 5. — Recruiting and Families

After formulating the principles which it judged suitable for adoption in order to prevent excessive recruiting, the Committee of Experts on Native Labour devoted consideration to the question whether part of the social and moral disadvantages inseparable from recruiting for employment at a distance and for a more or less prolonged period might not be avoided if the recruited workers were accorded increased facilities for taking their families with them.

In certain territories, particularly in *Africa* and the *Pacific* area, it may be difficult in this matter to reconcile the protection of the family and that of the Native community. It may be urged that if the Native leaves his family in his village he will continue not only to be drawn to the village after having been recruited but to remain part of it, particularly if his work is not so distant as to prevent him from returning from time to time for short stays or if the law provides for fairly short contracts and limits re-engagement. In these circumstances, the worker will not give up his stake in the village, and on his return he will naturally resume his place in the Native community, the integrity of which will thus be preserved. This conception would appear to fit in more particularly with the policy of respecting customs and maintaining Native communities which is more or less the present policy of most colonial administrations.

When however, recruiting involves the removal of the Native

to a place of employment far from his home, generally entailing a long absence irrespective of the formal duration of his contract, the question assumes another aspect. It is practically impossible for the worker to return home at relatively short intervals, and he is liable to lose contact with his family and his village. In this case, all the social and moral disadvantages which result from the separation of the Native from his family are found. It was principally in order to mitigate these disadvantages that the Committee of Experts suggested the principle that facilities should be given for recruited workers to be accompanied by their families.

The accompanying of workers by their families, or family recruiting—the two ideas should be kept quite distinct—may serve other purposes, namely, the employment of the women and even of the children, or the building up of a stabilised labour force in the neighbourhood of the undertakings. The Committee of Experts did not express an opinion either on the question of the recruiting of families with a view to their employment, or on the creation of a stable labour supply. It merely recommended the adoption of the principle of the accompanying of workers by their families, more particularly in the case of workers recruited for agricultural or similar employment at a long distance from their homes and for periods of a certain duration, and suggested that, according to the nature of the case, plots of ground should be allotted to the workers for cultivation or settlement.

The situation in the different territories varies considerably according to their special conditions and the policies in force as regards development and Native affairs. In some territories and under certain conditions, Native workers are permitted or are given facilities to be accompanied by their families, or family recruiting is allowed, either for reasons of social policy, or with a view to the employment of the families or the creation of a stabilised labour force; in other districts the movement of families is not regulated or, for demographic or other reasons, it is discouraged or even forbidden. The following notes give a survey of the situation in a certain number of territories; mention is also made in some cases of the measures taken to avoid the separation of the worker from his family when it has accompanied him to the place of work.

In the *Belgian Congo*, the accompanying of workers by their families is not regulated by law, the Decree of 16 March 1922 (section 4) only laying down that a married woman cannot legally be employed without the express or implied consent of her husband. Nevertheless, in practice, a considerable movement of families has taken place on account of the "stabilisation" policy pursued by important European undertakings,

especially the Mining Union of *Upper Katanga*. In this connection, Mr. Cayen, the General Reporter of the Congo Labour Commission, gives the following information:

"At the beginning of 1931, 5,559 households with a total of 4,022 children were established in the camps of the Mining Union In a few years time, numbers of children born in the camps will become artisans of a superior category to that of their fathers, because the elementary and technical schools which they attend will have prepared them to do a different class of work. In fact, what is taking place in Katanga is the formation of a stable population within the framework of European civilisation"

"The time is not far distant when the large industrial undertakings in Katanga will be able to obtain at their doors the labour they require"¹

Further, the Congo annual report for 1930 contains the following figures:

"On the construction works of the Great Lakes railways, the proportion of women to men is 57 per cent. and that of children 32 per cent., as against 61 and 30 per cent. in 1929 and 55 and 28 per cent. in 1928.

"In 1930, for every 100 men placed at the disposal of employers by the Leopoldville Labour Office, there were 29 women and 9 children, against 26 and 7 in 1929, and 18 and 5 in 1928.

"As regards the contingents placed at the disposal of employers by the Katanga Central Labour Office, in 1928 the proportion of women was 47.35 per cent., that of children 36.3 per cent. These proportions were 50.25 per cent. and 41.37 per cent. in 1929; in 1930 they reached 52.96 per cent. and 47.94 per cent.

"These three groups comprise at present a total of nearly 30,000 workers."²

Considerable differences are found in the law and practice in *British* possessions in Asia, Africa and the South Seas.

In *Ceylon*, where the estate population consists almost entirely of Indian immigrants, the accompanying of workers by wives and children is regulated by Rule 23 of the Indian Emigration Rules, made under section 24 of the Indian Emigration Act 1922 (VII of 1922); the Rule lays down that, with regard to the emigration of unskilled labour, men who are unmarried or unaccompanied by their wives shall not be assisted to emigrate to any one country in any one year to a number exceeding one in five of the total number of persons so assisted. The normal proportion of males to females which this provision tends to secure among Indian labourers working abroad has been fully attained in *Ceylon*, for in 1932 the Indian estate population was composed of 209,789 men, 200,518 women and 240,270 children. The practical equality in the numbers of the sexes indicates that family life is almost universal amongst Indian estate labourers. Moreover, there has been a steady increase in the number of children under ten years in proportion to the adult population. In 1926, children under ten years represented 18 per cent. of the population, in 1932, 26 per cent. In this connection it is worth mentioning that in 1921 about 30 per cent. of the Indian population in *Ceylon* had been born in the island. On many estates the settling

¹ Lecture by Major Cayen to the 14th University Social Week of the Solvay Sociology Institute (Sept.-Oct. 1932).

² *Annual Report upon the Administration of the Belgian Congo Colony for the year 1930*, p. 10.

of the workers is encouraged by placing at their disposal land for the cultivation of food supplies. In 1932 the number of garden allotments for the free use of the labourers amounted to 98,354.

The legislation affecting Indian labourers in Ceylon contains no provision preventing the separation of families on estates. In practice, however, this omission does not appear to have been felt to any extent, since the Ceylon planters were fully alive to the fact that separation of families is contrary to public policy and detrimental to the good name of their estates. Nevertheless, in his report for 1932, the Agent of the Government of India in Ceylon makes mention of cases in which the husband was discharged and the wife detained on the estate ostensibly for the reason that she was unwilling to accompany him, but in reality under the undue influence of the *kangani* or some other member of the estate staff. At the time of the drafting of his report, a provision rendering the separation of families, or the attempt to separate them, an offence, was under the consideration of the Executive Committee of Labour, Industry and Commerce.

In the *Malay Peninsula*, where the labour supply consists very largely of migrant workers, an important provision for stabilising the labour supply was adopted in 1928 by the insertion into most of the Malayan labour laws of a provision obliging the employer to set aside one-sixteenth of an acre of land suitable for cultivation or grazing for each labourer who had dependants living with him, and who had worked for at least six consecutive months on the estate. This provision was designed in ordinary times to increase the home-grown food supply, as well as to assist the labourer with a family by enabling him and his dependants to supplement their diet and their earnings with the produce of allotments and livestock. During the crisis which has brought with it a limitation of the amount of work provided for dependants, the provision of allotments and grazing grounds has become vitally important.

However, the accompanying of labourers by their families, which in Ceylon contributed so largely to the creation of a settled labour force on the estates, has not been carried to the same degree of development by the Malayan employers. Malaya has repeatedly been exempted by the Indian Government from the operation of Rule 23 of the Indian Emigration Rules, 1923. At the time of the 1931 census, the sex ratio of the Indian estate population was 644 females per thousand males. During the crisis, the exodus of females, minors and infants to India seems to have been particularly heavy. In his 1930 report, the Agent of the Government of India criticised the discharge of women and children as a very unwise step and expressed the fear that when normal conditions are restored, it would act as a setback on the emigration of families, unless encouragement is given to the emigrants by the payment of enhanced wages and the grant of special concessions.

The sex ratio of Chinese resident on the estates as shown by the census figures of 1931 is notably low, being only 190 females to 1,000 males. The immigration policy of the Malayan authorities tends to improve the sex ratio, for whereas immigration of adult male Chinese labourers was restricted from August 1930, no restriction has been placed on the immigration of women and children.

The separation of families and any attempt to separate families is prohibited and made an offence by all the Malayan labour laws.

The accompanying of workers by their families is permitted in *North Borneo* and under section 39 of the Labour Ordinance 1929, no labourer can, without consent, be separated in residence from husband, wife or children under age. Similarly, in the State of *Sarawak*, section 76 of

Order No. N-3 (Netherlands Indian Labourers' Protection) prohibits the separation of or any attempt to separate families.

In the *Pacific Islands*, the recruiting of women and children is usually prohibited, but special provisions exist enabling the workers to be accompanied by their families.

In *Fiji*, the *British Solomon Islands* and the *Gilbert and Ellice Islands*, no married male may be recruited unless he is accompanied by his wife and family, or unless suitable provision has been made for his wife and children during his absence. They may be employed on the same plantation as the husband or father.

In the *New Hebrides*, recruited Natives are entitled to take their wives and children with them, expenses being borne by the employer. The wife may be employed on the same plantation as her husband.

In the *Mandated Territory of New Guinea*, no women or children under twelve years of age may be recruited. Nevertheless, a married woman may, with her consent and with the consent of her husband, be recruited if her husband is recruited by the same person and if it is intended that husband and wife should work together at the same place. Furthermore, a qualified officer may grant a permit to allow the wife and children of a Native who has entered into a contract of service to accompany the Native. Employers are required to provide suitable accommodation for every labourer who is accompanied by his wife. Where any married woman who has not been recruited accompanies her husband, she shall not be required but may be permitted to work for the employer.

In British territories in *Africa*, examples of the application of a policy of family settlement near employment centres are rare. The administrations, in pursuance of their desire to further Native tribal development, tend rather to encourage the return of the workers to their villages of origin.

In the *Union of South Africa*, a large urban Native population has sprung up through the force of economic circumstances, and in spite of the Government's Native policy, the ultimate object of which is segregation, variously defined. For this reason, as well as on account of the large number of Native workers employed in the Rand gold mines, families are not allowed to accompany the workers to the mines.

In the copper mines of *Northern Rhodesia*, there is, however, a marked tendency towards family settlement. On the Roan Antelope Mine on 31 December 1932, out of 2,344 workers, 45 per cent. had their women and children with them, and to permanent workers grants were made of lands for the growing of foodstuffs. The average duration for the employment of married men totalled 20.25 months and for single men 9.79 months. At Nkana, the other mine of the territory then producing, the presence of married men with their families also appears to be encouraged.

In the *West African* mining areas, Native villages have sprung up, but it would seem that they are rather the result of the economic attraction of the mining industry than of a settled policy either on the part of the administration or of the mining companies.

In the *East African* dependencies, settlement outside tribal areas is not encouraged, although the workers are occasionally accompanied by their families.

The *Kenya* Labour Commission which met in 1927 expressed the opinion that a system of regular labourers accompanied by their families, who would occasionally work on the plantations, would be beneficial

both to the labourer and to the farmer and should be encouraged as far as possible.

For the *Spanish* territories of the *Gulf of Guinea*, provisions relating to the question of families are to be found in section 54 of the Provisional Regulations respecting Native Labour in the Spanish Territories of the Gulf of Guinea, approved by a Royal Decree of 6 August 1906. This section authorises "official" or "private" recruiting of Native families of continental Spanish Guinea who are engaged as workers (*servidores*) for Fernando Po, provided among other matters that the members of the family are engaged by the same employer and are employed in the same undertaking. The same section adds that if at the expiry of the contract the conduct of the various members of the family has been satisfactory, the head of the family shall be entitled to claim a concession of 2 hectares of land in any place in the island which suits him.

In the *French* colonies, legislation in general encourages the idea of the worker being accompanied by his family.

In *French Equatorial Africa*, the Decree of 4 May 1923 lays down (section 14) that "the worker is entitled to be accompanied by his family; in that case the employer must provide him with the necessary dwelling."

In *French West Africa*, the legislation does not contain any compulsory provisions but the "Instructions of 1 August 1930 relating to the health and sanitary protection of workers recruited by private persons" advises Administrators to urge the directors of undertakings to encourage their workers to bring their wives to the place of work, and their children if they have any; and the Governor-General emphasises the advantages both for the employers and for the Natives which will result from the settlement at the place of work of the workers' families. In addition, the Decree of 29 March 1926 lays down (section 32) that the large industrial and agricultural undertakings should place cultivable land at the disposal of the workers and their families. The Governor-General considered that "such villages when permanently settled may form the centre of new populations and of a sort of new Native colonisation and, through the attraction which they will have for the district from which their inhabitants came, may help to create a valuable stream of emigration towards regions which offer favourable prospects for the future."¹ These official Instructions have resulted in experiments like that of the Niger Office, which, by improving the lands of the Macina, attracts to a region which it has made prosperous a population from barren territory. The experiments made at Nienebale, for example, have shown that Native colonisation is possible when based upon the following principles: recruitment of the Native colonists entirely by publicity made possible by the extension of the existing colonised centres, retention of the customary family life, grouping by races which are on friendly terms, maintenance of these families in climatic conditions similar to those from which they come, maintenance of relations with the Native village, and technical education of the workers. Other experiments have been made, on the Ivory Coast for example, by establishing in the region of the Indenie families removed from poor territories in the north. These experiments have taken the form of "colonised villages" in which, among other

¹ Instructions of 29 March 1926.

advantages, the Natives inhabit a village arranged in accordance with the ethnical type to which they belong, the free use of neighbouring land in which they can carry out the agricultural and industrial cultivation which they prefer and the free distribution of seed and agricultural implements, etc.¹

In *Indo-China*, legislation allows families to accompany the worker, but an official document stated in 1926 that the number of women and children recruited by the big hevea plantations in Cochin-China were scarcely on the average one-eighth of the strength of each convoy arriving from Tonkin. and recommended the establishment of the workers on a single plantation in the form of a "village".

As regards the separation of members of the family, the first Decree of 25 October 1927 lays down, in section 4, that the family of the recruited worker forms a group which must not be broken up. As regards the employment of Javanese coolies in Indo-China, the Decree of 8 March 1910 lays down, in section 9, that "no recruited man may be separated, without his consent, from his wife and children of tender age or from any other member of his family who has been authorised to reside with him; in case of separation to which he has not consented, the representative of the administration may order the immediate reunion of the members of a family". The model contract for Javanese coolies emigrating to *New Caledonia* provides, in section 7, that the employer concluding the contract shall not separate the workers from their family without their consent.

It should be added that, as regards the French possessions, the accompaniment of the workers by their families has not always proved entirely advantageous; thus, the "Ministerial Instructions relating to the drawing-up of estimates for the expenditure of colonial loans" contains the following reservation: "Nevertheless, it does not seem desirable to encourage the removal of the women, since experience has shown that camp life has an adverse effect upon the birth rate and very soon destroys the desire to have children. It seems preferable to grant leave at frequent intervals so that relations with the family are thoroughly ensured. Every pregnant woman, who has already other children to support, should be entitled to the return of her husband during the last months of her pregnancy."²

In *India*, where there is considerable recruiting, as has been noted above, for the Assam tea plantations, the planters' desire to create a stable labour supply has made it usual for families to accompany the worker. At the end of June 1932, the population of the Assam plantations was 1,072,613 persons, of whom 335,404 were adult men, 282,891 were adult women and 454,318 were children. The proportion of women to adult men was therefore 843 per thousand. Settlement of the workers on the plantations is encouraged by the grant of small allotments of land for the growth of food supplies.

Some *Italian* colonies have definitely adopted the policy of stabilising the labour supply.

¹ These colonised villages were established on the Ivory Coast by the Decree of 11 August 1933 (*Journal Officiel de la Côte d'Ivoire*, 15 Sept. 1933).

² MINISTÈRE DES COLONIES. INSPECTION GÉNÉRALE DU SERVICE DE SANTÉ: *Instructions relatives à l'établissement des prévisions d'emploi des crédits sanitaires supplémentaires des emprunts coloniaux.*

In *Somaliland*, the Governor has drawn up for the district of Genale two model contracts which must be followed for the permanent settlement of Native workers in agricultural undertakings¹. One of these contracts, entitled a "Labour Contract for permanent Native labour", lays down that the worker shall be provided with a hut (*tukul*) for himself and his family and with 3,750 square metres of prepared land in a good state of irrigation for the cultivation of food supplies, the whole profits of which go to the worker. On his side, the worker is required to work five days in the week in the undertaking in return for wages which are officially fixed. As a rule this contract lasts for one agricultural year. Although it was drawn up with special reference to the Genale district it seems also to apply elsewhere in the Colony. Under the other contract, entitled "Colonisation contract for plantations", the undertaking must provide the colonists, in addition to the necessary *tukuls*, with prepared ground put into a state of normal irrigation, of an area of 1½ hectares for every adult and able-bodied person, man or woman, who is a member of the family of the colonist or of the group of associated colonists. Half of the land granted to the colonist is devoted to industrial cultivation for the profit of the undertaking and the other half to the cultivation of food supplies for the profit of the colonist, the working days being equally divided between the two. Benefits in kind are paid when the production of cotton or other industrial cultivation exceeds a given average of weight or of value per cultivated hectare. The colonist's contract is for one year, but may be extended from year to year by mutual agreement between the parties. In practice it seems to apply to the whole Colony except as regards the Italo-Somaliland Agricultural Company. At present, the number of families settled in the undertakings is about 3,800 for Genale and about 2,400 for the Agricultural Company. On the concessions of the company, the families of colonists are organised by ethnical groups in 16 villages, which have been recently formed and in which they have mosques, shops (*ducan*), wells and the other requirements of their customary existence.

In the agricultural undertaking of Tessenai, which was formerly administered by the Government of *Eritrea* but was conceded in 1931 to a private company, some workers are employed on the basis of contracts granting land to the Native with the requirement that he shall cultivate part of it for cotton (half of which he will hand over free and the other half in return for payment, and partly for *dourah* for his own needs. He is granted seed, advances of money, sacks and the use of a *tukul* for a dwelling. Special clauses deal with transport and the various kinds and methods of cultivation and lay down that the cultivator must be present at the irrigation process in order to follow and understand how it works. It is provided that the grant of land shall become definite for those workers who have done good work and who settle in the region of Tessenai. In 1931, about 2,500 hectares were planted with cotton and about 1,000 with *dourah*.

In the *Netherlands Indies*, although it is by no means general for the worker to be accompanied by his family, it is more and more regarded as a means of ensuring a stable labour supply; it is practised, among other organisations, by the V.E.D.A., which recruits Javanese for the Outer Provinces by means of propaganda by the workers. Under the terms imposed by this organisation, the recruits, who normally enter into a contract for a period of two years, may even bring at the employer's

¹ Decree of 10 May 1929, No. 7475.

expense, in addition to their family, one adult or two minors from among those of their nearest relations (father, mother, sister or brother), who are old or very young and would otherwise be left without resources¹. Similar action was taken in 1910 by the tobacco planters of Deli, who authorised their workers recruited in China to bring with them their wives and children at the employers' expense; but only a small number of Chinese workers have taken advantage of this facility. The directorate of the tin mines of Banka has granted the same facility since July 1932 to their recruiting workers who bring in at least two new workers, but the heads of families making use of this right must in return enter into a contract for two years instead of one.

The measures described above are completed by provisions which in the first place lay down a certain proportion between the number of male and of female workers, and, secondly, endeavour to stabilise the labour supply by the grant of allotments. As regards the first provision, the Governor-General may fix for the country, or for given districts, the proportion between men and women to be observed in each convoy of workers to these territories².

Stabilisation, in the strict sense, of labour supply has always been considered extremely important in the Outer Provinces owing to the absence in those Provinces of a free labour market and to the overpopulation of Java. The problem is complicated by the fact that on the East Coast of Sumatra, where immigrant workers are most numerous and where the colonisation of workers would therefore offer the most advantages, the agricultural concessions are so close to one another, especially in the region of Deli, that there is an almost complete lack of free land and the authorities consider that workers' colonisation should be carried out on land which is in every respect outside the control of the employer. On the other hand, the planters have always urged the stabilisation of labour on the plantations themselves. This difference of opinion seems to have been settled by the Government's pronouncement in 1933 in favour of the settlement of former workers upon public lands³ so far as they are available, close to the plantations, so that the colonists may earn their living by working part of the time in the employer's service and also by cultivating their own allotments. The Coolie Ordinance of 1931 requires employers to provide all workers under penal sanction contracts, who are married and have been in their service for five years, with a detached or semi-detached family dwelling of reasonable situation and dimensions; at the end of 1930, 35,811 workers' families were living in such dwellings.

Finally, the regulations relating to penal sanction contract labour provide that the worker may not be separated from his family without his consent throughout the length of the contract. The Netherlands Indies authorities require the insertion of a provision on this subject in the labour contract for Native coolies recruited for foreign colonies.

In *Dutch Guiana*, the Government has for many years encouraged the permanent settlement of labour in the territory. Moreover, the planters have always encouraged the settlement of labour on the plantations; among other advantages, such settlement allows them to build up a reserve in case the Netherlands Indies Government forbids

¹ Decree by the Director of the Batavia Labour Office of 27 July 1931, No. E. 68/1/3.

² *Wervingsordonnantie* (*Staatsblad* No. 613 of 1914).

³ The lands in question belong not to the State, but to Native principalities which are under autonomous administration.

the recruiting and long-term engagement of Javanese workers for Dutch Guiana. While the administration encourages colonisation on public lands, it has endeavoured to forward the planters' efforts to settle labour on the actual plantations, in particular by extending certain advantages in the contract as regards housing, medical treatment, etc., to workers who, at the end of their contracts, take service as free workers. As a rule, the conditions under which the free workers are settled in the plantations are more or less the following: the employer gives the workers the right to use, or the possession of, a family dwelling and a hectare of land. The workers undertake to work on the plantation for a certain number of days a week or for certain seasons such as the coffee harvest. They are almost entirely Javanese, who have been kept in the employment of the plantations by these means. The Indians have, in most cases, preferred to live as independent colonists¹.

As regards the maintenance of relations with the family in Dutch Guiana, the competent officials have to satisfy themselves, when foreign labourers brought in by the administration are allotted to employers, that children under fifteen years of age remain with the persons, parents, guardians or others, to whom they are entrusted, and that account is taken so far as possible of the immigrants' desire to remain together.

In the *Portuguese* colonies, the Native Labour Code of 1928 provides for the engagement of families in the following terms: "Members of the family shall be included in the same document and covered by all the clauses laid down in respect of the head of the family, except as regards the amount of the wages" (section 124). The Code also provides that "the members of one and the same family when included in the same contract shall not on any pretext whatever be allocated to different employers" (section 77, para. 2).

§ 6. — Recommendations of the Committee of Experts on Native Labour

In the preceding pages some reference has already been made to the suggestions of the Committee of Experts regarding the action to be taken to protect Native communities against the possible results of recruiting. These suggestions follow the order of the questions as they have been set forth in this Chapter.

In the first place, the experts recommend the adoption of a preventive policy of regulating the rhythm of economic development in colonial territories, in order to avoid situations in which excessive demands for Native labour become inevitable, with the resulting danger of the use of compulsion in recruiting workers required for European undertakings.

In the second place, the Committee suggests that the administrations concerned should subordinate the granting of permission

¹ E. SNELLEN: *De sanvoer van arbeiders voor den landbouw in Suriname, 1933*. Surinaamsch Verslag, 1932. Vol. I. *Tekst van het verslag van bestuur en staat van Suriname over het jaar 1931*.

to recruit to certain rules, the common object of which would be to avoid the undesirable results of excessive recruiting of adult male Natives. Such recruiting is a danger to Native communities (1) as regards the birth rate; (2) as regards material conditions; (3) as regards morality; and (4) as regards social organisation. It would therefore be desirable that, in regulating recruiting, the possibility of determining upon a scientific basis the number of men who may be recruited without causing disturbance in Native life should be taken into account.

The third aspect of the policy of protecting communities is the manner in which the question of the families of recruited workers is dealt with. In this respect, the experts recommended that the accompanying of workers by their families should be encouraged when workers are recruited for agricultural or similar employment at a long distance from their homes, and for a fairly long period. In this case it would be desirable to place at the disposal of families a small allotment upon which they could carry out the necessary cultivation of food supplies. When the authorities endeavour to establish a working population in the neighbourhood of big undertakings, this policy could be realised by the definite settlement of the workers' families at the place of employment, in houses belonging to them, and, so far as possible, upon Government land. As a rule, members of the workers' families should not be separated for the whole period of employment.

Finally, the Committee was of opinion that the competent administrations should consider the application of the general principles which it has recommended for the regulation of recruiting to voluntary movements of labour.

The text of the general principles adopted by the Committee of Experts is as follows:

B. — GENERAL PRINCIPLES

(1) *When considering applications for land or mineral concessions or other applications to establish undertakings the granting of which is likely to involve the recruiting of labour, the competent authorities should only grant such applications on condition that:*

- (a) *there will be no risk of pressure on the peoples concerned in order to obtain the labour required for such concessions or undertakings;*
- (b) *the political and social organisation of such peoples and their powers of adjustment will not be endangered by the demand for labour, whether the labour be offered spontaneously or not.*

(2) *Before permitting the recruiting of labour in any given area, the competent authorities should take into consideration the possible effects*

of the withdrawal of adult males upon the community concerned, and in particular should consider :

- (a) the density of the population and its tendency to increase or decrease, and the probable effect upon the birth-rate of the withdrawal of adult males ;
- (b) the possible effect of the withdrawal of adult males upon the welfare and development of the community, notably in connection with the food supply ;
- (c) the moral dangers arising from such withdrawal ;
- (d) the probable effects upon social organisation.

As a safeguard against such dangers, the Committee recommends that the competent authorities should, where necessary, provide that the maximum number of males of labour age and fit for work who may be recruited in any given social unit, for employment either by Government or by private employers at a distance from their homes, should be so fixed that the number of males remaining in any given unit should not fall below a prescribed percentage of the normal proportion of males to the other members of the community (women and children).

(3) Unless special circumstances make the adoption of such a policy undesirable, the competent authorities should make recruiting conditional on every facility being given to the workers to be accompanied by their families, more particularly in the case of workers recruited for agricultural or similar employment at a long distance from their homes and for periods of employment exceeding a certain duration to be fixed by the competent authorities (e.g. one year).

When the absence of the worker and his family is intended to last only for the period of employment, provision should be made, whenever possible, for placing land at the disposal of the workers for the cultivation of food supplies. In all appropriate cases, the workers should be grouped under suitable ethnic conditions.

If and when the wife and minor children of a recruited worker accompany him to the place of work, the members of the family should not be separated during the period of the employment, except in such special cases as may be determined by the competent authorities.

If the policy of the Government is to establish the working population in the neighbourhood of the place of work, the workers should be properly settled, preferably on Government land.

(4) The general principles formulated above for the regulation of recruiting should be applied to voluntary movements of labour.

CHAPTER IV

THE AGENCIES OF RECRUITING

It has been shown in previous chapters that recruiting as defined by the Committee of Experts on Native Labour, i.e. "any operation or operations undertaken with the object of obtaining the labour of persons who do not spontaneously offer their services" to the employer or through emigration or placing agencies, arises primarily through the need to stimulate a labour supply in areas where the employment-seeking habit has not yet developed, or to supplement an insufficient supply of labour. In both cases, recruiting continues until improved organisation facilitates the contact between worker and prospective employer, familiarity with employment permeates the areas of labour supply, or a permanent labour force is constituted.

The earliest form of recruiting was in most cases that of professional recruiters who, having acquired a special knowledge of the labour supply and demand in their areas, often carried on their business on a speculative basis and with considerable profit to themselves. The disadvantages of the situation both for worker and for employer were early recognised by administrations, which were increasingly led to intervene in the regulation of the professional recruiter's activities, with the result that he has largely been superseded by other forms of recruiting organisation or has become the agent of the employers, for whom he is not entitled to recruit in excess of their powers of absorption.

In primitive territories, the professional recruiter has sometimes been anticipated or aided by a Government officer, who thus became directly or indirectly an agent for the supply of labour. As is shown below, however, except where the principle of labour compulsion was admitted, it rapidly proved inconvenient for a public officer to assume these functions in areas for the administration of which he was responsible. The result was that he came more and more to supervise rather than to second the activities of the recruiting agent.

Whatever the form of recruiting, Native chiefs or other Native authorities may be an important factor in the stimulation of the labour supply, both in the initial stages of recruiting and when recruiting is being replaced by other methods of obtaining labour. In the early days of opening up a territory the chief may be the most effective authority in the land. Not infrequently this situation has brought recruiters into such close relations with chiefs as to make the latter direct purveyors of labour until the resulting abuses have led administrations to prohibit such transactions between chiefs and recruiters 'as might induce chiefs to exercise pressure on their people.

The most widespread form of recruiting found to-day is that of recruiting by employers through their agents or the agents of their organisations or through professional recruiters acting on their behalf. It is therefore with the detailed regulation of this form of recruiting that this Report is mainly concerned.

Consideration must, however, also be given to the worker-recruiter, whose activities, though they are not susceptible of the same form of regulation as those of the other agents of recruiting by employers, have been brought under some degree of administrative control and under the responsibility of the employer.

These various agencies of recruiting will be examined in the following sections, in the order of the recommendations of the Committee of Experts: recruiting by public officers, recruiting by Native authorities, professional recruiters, recruiting by employers and their agents, worker-recruiters and recruiters' assistants.

§ 1. — Recruiting by Public Officers

ACTIVE RECRUITING

Article 6 of the Forced Labour Convention provides that "officials of the administration, even when they have the duty of encouraging the populations under their charge to engage in some form of labour, shall not put constraint upon the said populations or upon any individual members thereof to work for private individuals, companies or associations".

It is the inevitability that recruiting by public officers will, in fact, result in constraint being put on the populations under their charge that underlies most criticisms of this form of recruiting.

Mr. Camille Janssen, at the 1912 Session of the International Colonial Institute, stated:

"In general, Governments should not undertake the recruiting of workers, because the action of Government upon Native populations may be considered by the latter to be so powerful that recruiting by the Government would border upon forced labour, and would give rise to the belief that Natives engaged by this method and placed at the disposal of private employers are, so to speak, compelled by the Government to forced labour. . . . Recruiting can never be done by a colonial Government within the area administered by it." ¹

Even earlier, in 1901, Sir Godfrey Lagden, Commissioner for Native Affairs in the Transvaal, expressed the opinion that:

"it is, both in the interests of justice and business, undesirable for magistrates or other officers of Government to be employed to recruit labour. The labourers should feel certain that, in case of dispute or grievance, they always have an impartial forum to appeal to. If a magistrate becomes a recruiting agent his individuality is prejudiced, and all sense of confidence in him is liable to be lost, not from any fault of his, but from the fact that he is placed in a false position towards those he is deputed to advise and govern." ²

In 1933 a similar opinion was expressed by the former Labour Commissioner of Tanganyika Territory:

"The first disadvantage lies in the risk of an element of compulsion creeping in; if the recruiter is a Government official, he will always inspire a certain awe in the mind of the Native, and without intending to do so he will probably be considered as giving orders when he is only making suggestions. This will inevitably lead to friction between him and the administrative officer, when the local chiefs will not be slow to take advantage of the possibilities of setting one official against another. Again, the recruiter is by the nature of his work peculiarly exposed to accusations, and it is clearly undesirable to have an official constantly liable to be charged by some disgruntled Native with resorting to bribery, using threats, withholding money, or the many other complaints that may be brought forward.

"The second weakness is that an official service must be available for all; there can be no discrimination between employers, except possibly under clearly defined rules, such as actual convictions recorded. This entails the provision of servants for any applicant, and the bad employer must have as ready help as the good; the agent must do his best to encourage men to go to a place where he privately knows conditions to be bad or at least indifferent, and he eventually finds himself in the position of constantly helping the bad employer, since it is he that will most need the services of the agency. In other words, a Government official will be using his best efforts to recommend men to go to low-grade masters, the satisfactory estates having far less need of help. Should the agency fail to furnish the supply demanded by any applicant, there will be an outcry about incompetence or favouritism which the agent will find difficulty in answering, unless he can produce definite evidence, sustainable in court, of bad conditions on the complainant's property." ³

¹ INTERNATIONAL COLONIAL INSTITUTE: *Compte rendu de la session de 1912*, pp. 299-300.

² *The South African Natives, Their Progress and Present Condition*, p. 47. Edited by the South African Native Races Committee, 1908.

³ Major G. St. J. ORDE BROWNE: *The African Labourer*, p. 51.

The reports drafted by members of the Belgian Advisory Labour Committee after their mission to the Congo in 1931, from which reports extracts are given below, similarly emphasise that the "prestige of the administration has become such that a wish or suggestion expressed by its representatives is considered to be an order, even if made on behalf of a private individual".¹

The inconvenience of administrative officers directly acting as recruiting agents is almost universally admitted in practice. Prohibition of such action only figures, however, in a few laws, probably because the relationship between the administration and its servants in such a matter does not require legislative expression.

The *Portuguese Native Labour Code* of 1928 forbids authorities "to recruit Native workers for the employment of private persons either directly or through any officials or public employees who are subordinate to them".

In the *Cameroons under French Mandate*, the Decree of 9 July 1925 provides that "an administrative authority shall not intervene in the recruiting of workers or porters destined for private persons or private undertakings, except to supervise" conditions of recruiting.

One exception is, however, to be noted. In the case of very primitive tribes it has sometimes been considered that the opening up of an area to a private recruiter may be more dangerous than the assumption of his function by the administrative officer.

Thus, in the *Mandated Territory of South West Africa*, it was provided under the Native Administrative Proclamation, 1922, that no person other than an official appointed by the Administrator should recruit labourers in Ovamboland or the Okavango area for any purpose whatever. In 1925, however, an employers' recruiting organisation was founded and since 1927 Government recruiting has apparently ceased.

In the *Philippine Islands*, the Division of Inter-island Migration of the Bureau of Labour has since 1918 been responsible for a land settlement campaign, by which, between 1918 and the end of 1929, 21,482 "home-seekers" were drawn from the densely to the sparsely populated districts. For a time labourers were also recruited and supplied to employers on payment of the expenses of recruiting and transport. Between 1918 and 1921, 8,708 labourers were so recruited, particularly for hemp, rubber and sugar plantations. In 1921, however, the demand for labour decreased and it does not appear that the administration has resumed labour recruiting operations.

In the *Mandated Territory of New Guinea*, provision has been made for the possibility of the Administrator cancelling all recruiting licences and undertaking the recruiting of labour through his own agents. Use has not yet been made of this provision, however, and the New Guinea legislation appears rather concerned with preventing the assumption that Government officers should directly encourage acts of recruiting.

¹ Report of Colonel Bertrand on the Eastern Province.

On the other hand, provisions permitting direct recruiting would appear to be still in force in the *Spanish* possessions of the *Gulf of Guinea*, under the 1906 Regulations.

According to section 1 of these Regulations the *Curadoria Colonial* (Department of the Protector of Natives) has the duty of "contributing to the civilising of the Native by encouraging him to work". In section 2 the *Curadoria* is enjoined to give assistance to the Government of the colony, to agriculturalists, industrial employers, merchants and private persons in order to facilitate the recruiting of labourers (*braceros*), other workers and domestic servants. Section 24 provides that all Natives domiciled in the island of Fernando Po who have no property, profession, or legal or known occupation, are wards of the *Curadoria* and are obliged to work under contract either for the Government or private persons; the Natives of the tribe of "Bubis" are excepted, although the Governor may authorise their voluntary recruitment for short periods and on light work. Further, section 39 instructs the representatives of the *Curadoria* to collect for transport to Santa Isabel the Natives recruited "by the initiative of the local Governments of Bata and Elobey, an initiative the object of which is that as many as possible of the Natives of these regions should undertake to accept employment in the island of Fernando Po." Finally, mention may be made of a Decree of the Governor-General of 21 June 1927 granting provisional authority to the official Chamber of Agriculture of Fernando Po and its agents to recruit labour for the island in continental Guinea; for this purpose the Chamber was authorised to set up recruiting agencies at Bata, Benito and in the district of Elobey.

OFFICIAL ASSISTANCE TO RECRUITERS

The prohibition of direct recruiting by public officers is, however, only the first and simplest part of the problem of the attitude to be taken by the administration and its officers towards the demand for labour. Without recruiting, Government officers may be permitted, encouraged or even required to go beyond their normal duties of fostering habits of industry by actively seconding the operations of the recruiters. In many cases it is difficult to discover to what extent this occurs in practice, since the question may be one of appreciation and administrative conscience rather than of formal instructions. It is admitted, however, that in some territories the stimulation of the labour supply is regarded as one of the functions of Government.

In the general account given in Chapter II of the evolution of the problem of recruiting in the *Belgian Congo* will be found the conclusions reached by the Labour Commission on the part to be played by the administration in the recruiting of Native labour. The 1925 Commission decided that temporarily, and while respecting the principle of freedom of engagement, the administration might be permitted to intervene to encourage recruiting in favour

of private undertakings affording every guarantee. The 1928 Commission explained that only subordinate public officials should be allowed to intervene directly in favouring recruiting, as, for example, by accompanying the recruiter in the capacity of advisory or conciliation officer.

The delegation of the Advisory Labour Committee, after its mission to Africa in 1931, expressed the opinion that this transitory period should come to an end and that thenceforth the administration should limit its activities to an energetic and constant propaganda of a general character. Only in the case of primitive peoples might the administration intervene in favour of certain undertakings, and then solely under the authority of a formal order issued by the Provincial Governor.

Mention has also been made of the instructions to the Governor-General of the Congo, given by Mr. Tschoffen, Belgian Minister for the Colonies, under date 13 July 1932, which apparently forbade definitely the practice of allowing a Government officer to accompany recruiters working for certain undertakings. It thus appears that the direct intervention of the administration in recruiting operations is no longer permissible.

The separate reports drafted by the members of the delegation of the Belgian Labour Committee after their mission to Africa throw light on the theory and practice of administrative intervention in recruiting operations.

Colonel Bertrand has already been quoted as stating that a wish or suggestion by a public officer is considered as an order. He added:

"There is often no longer any actual pressure, but the Native, as a result of habit, ignorance or indifference to a change which may liberate him, continues to act as if he were under the threat of compulsion."

Mr. Engels reported:

"If there is every reason to believe that the prohibition (of direct Government intervention) is respected in the sense that the administrative officers never intervene in an actual recruiting operation and are never present, note should nevertheless be taken of their statements that generally they summon the chiefs or messengers, inform them of the number of men whom it is hoped to recruit among them, and recommend at the same time that they welcome and aid the recruiter. Although the chief frequently interprets these recommendations as a direct invitation from the administration to satisfy the recruiter, and is likely to fear that in case of failure or insufficient recruiting success the administrative officer will blame him, it is excessive to regard the attitude of such an officer as a direct intervention in recruiting."¹

¹ Report of Mr. Engels on the Katanga Province, p. 112.

Dr. Mottoulle states:

"Labour recruiting is effected without physical compulsion. In the opinion of the author the moral pressure of the administrative authority will be necessary for several years to come among certain backward peoples of the Equatorial Province. Such a pressure can only be justified during a period limited by the needs to educate these peoples. Once an industry or European undertaking has been assisted for two or three years by the administration to obtain labour, and at the end of that time has failed to establish a labour clientele among its recruits, it no longer is deserving of further administrative assistance." ¹

As regards governmental institutions in the Belgian Congo, some reference should be made to an organisation which appears to be connected with Government intervention in recruiting, but which has also other functions: the Labour Office (*Office du travail*) set up by an Order of 15 November 1922 at Leopoldville. Its functions included the investigation of the districts from which the exceptional amount of labour required for public works in the Lower and Middle Congo could be drawn, and the preparation of a scheme for the engagement of these workers and their transport to the places of work; secondly, the study of the peoples concerned and their needs, with particular reference to the food and housing conditions, routes and means of transport to and from the places of work, the construction of rest camps and halting places, etc.; and finally, the establishment of labour locations, the organisation of recruiting and the supervision of labour contracts and general conditions affecting the health and safety of the worker. The Office is intended to act in a general way as an intermediary between employers and workers. It functions as an autonomous unit with its own budget; its Director is responsible directly to the Governor-General; a medical officer is attached to it; it distributes labourers among the various public works in accordance with their labour requirements.

In certain British territories, particularly in *Kenya*, the proper limits of a public officer's actions in regard to the labour supply has been the subject of controversy.

In March 1925 the acting Governor of that Colony stated at a meeting of the Convention of Associations:

"Government expects every administrative officer to give all possible encouragement to the labour within their district to work on the lands which have been opened up by the settlers, etc." ²

Later in October 1926 the Governor, Sir Edward Grigg, declared before the same body:

"If Government gives encouragement and advice—I am talking of genuine encouragement and advice, not of veiled compulsion of any sort—and if it says that working on farms is a good thing and beneficial to the Native, thousands of Natives will cheerfully go out. If Government, on the other hand, and the officers of Government are indifferent, thousands will equally cheerfully stay at home." ³

¹ Report of Dr. Mottoulle on the Equatorial Province, p. 85.

² *East African Standard*, 14 March 1925.

³ R. L. BUELL: *The Native Problem in Africa*, Vol. I, p. 340.

The "Bishops' Memorandum" published in 1919 had already criticised the policy indicated in these passages, calling attention particularly to the fact that it is difficult for a Native to distinguish between a hint and an order on the part of the Government. Moreover, the Native Labour Commission (East Africa Protectorate) had in its report of 1912-1913 expressed its views of what was implied in the policy:

"The chiefs and headmen, take their attitude from their district officer. . . . Where they are impressed by him with the necessity of sending men to work, they, from a very natural desire to stand well with him, resort to methods which cannot be termed otherwise than forcible, for the means employed are either actually physical restraint, or the temporary seizure of stock, or threats."¹

It does not appear that the practice at one time advocated in Kenya of directly stimulating Natives to accept employment with Europeans is any longer countenanced by the East African administrations. The following Government instructions of 15 January 1927, circulated by the Government of *Nyasaland*, appear to indicate a typical official attitude towards the question of holding a proper balance between the claims of peasant cultivation and the claims for work on estates:

"Where conditions are suitable to the growth of economic crops, provided the food supply has been amply provided for, every assistance should be given to the Natives who desire to grow them. If the Natives prefer to work for others instead of growing economic crops they should not be deterred in any way from doing so.

"No steps should be taken to induce Natives who are accustomed to work on plantations or elsewhere to abandon the habit in favour of direct production. Indirect as well as direct production should be encouraged and it must be kept in mind and constantly impressed on Natives through the headmen that work on roads and railways and in factories is a vital part of production.

"In localities where Natives cannot grow economic crops owing to lack of transport facilities or unsuitable local conditions, administrative and agricultural officers will best serve the community as a whole by recommending Natives to engage in indirect production by working for Government or for private employers.

"If a Native is leaving his home to seek work or under a contract of labour and desires to take his family with him, no pressure should be exerted to prevent him from doing so.

"Natives should be encouraged to remain in the Protectorate and engage in the production of foodstuffs and economic crops or to work for Government or for private employers."

In *French* colonies, the part played by public officers in recruiting operations more closely approaches the direct encouragement of engagement in European employment.

¹ NATIVE LABOUR COMMISSION, 1912-1913: *East Africa Protectorate*, p. 323.

In the *Cameroons under French Mandate*, as already stated, the basic principle of the law is the prohibition of recruiting for private purposes by administrative authorities. Nevertheless, the Circular of 4 November 1925 concerning the application of the 1925 Decree somewhat attenuates the absolute nature of this prohibition. Public officers are instructed that:

"it must be clearly understood that you should not take part in the recruiting of any form of labour. However, this provision of section 6 of the 1925 Decree which unreservedly excludes recruiting by the administration for private employers should not be interpreted too rigidly in certain respects, and you may take action with a view to regularising the relations between workers and employers. In any event, your impartiality should be of the nature of benevolent neutrality both towards worker and towards employer and the non-intervention prescribed by the law should never be carried as far as abstention. I am certain you will grasp the distinction I have drawn. Abstention on your part may possibly be contrary to the interests not only of undertakings but also of the Native labourers themselves and the territory will hardly profit by it." ¹

The general system of recruiting, however, is summarised as follows by the administration:

"The employers apply to the Commissioner of the Republic for authority to recruit in a certain district. If such authority is granted they send their recruiters to centres where offers are made to the workers subject to the constant supervision of the administration. Once recruiting has taken place the contracts are approved and attested by the administrative officer of the subdivision."

It is more difficult to gather to what extent the supervision of recruiting in *French Equatorial Africa* implies the actual assistance of private undertakings. A Circular of 10 October 1911, in which the administration indicates the general purport of the Decree of 7 April 1911 regulating labour contracts in French Equatorial Africa and which does not appear to have been superseded by later texts, states:

"Above all I wish to emphasise the underlying idea of the present Decree and to which I alluded in my Circular of 1909. It arises from the obligation to provide for our fellow-countrymen who have come to take part in the work of colonisation a first guarantee for the continuation of that work by aiding them to obtain the necessary hands for the maintenance of their undertakings."

It is true that the Decree of 4 May 1922 stresses the fact that the engagement of workers shall be free, subject to administrative control. It would appear, however, that before the administration began to pay particular attention to the protection of the workers,

¹ *Cameroons under French Mandate, Annual Report for 1925*, pp. 91-92.

the forestry undertakings regarded themselves as more or less entitled to count on the intervention of the authorities in the obtaining of labour. From 1926 the administration informed new undertakings that any grants made them would have to be exploited at their own risks and perils and that they might not obtain the necessary labour. Applications for new permits were only to be taken into consideration if accompanied by a declaration made by the applicants stating that they had been informed that the administration would give them no promise regarding the action to be taken on any requests they might make for authority to recruit. Moreover, permits to establish undertakings bear the mention "without any guarantee as to labour".

Nevertheless, dissatisfaction at the situation has been felt by the employers, who have advocated that the administration should officially undertake to supply them with labour. Furthermore, on various occasions the central Government of French Equatorial Africa has drawn attention to the possible benefits to Native workers of a policy involving a certain degree of pressure to persuade them to enter into the agricultural employment of Europeans. At a speech made before the Government Council of French Equatorial Africa in November 1930, Governor-General Antonetti stated that if the principle of administrative non-intervention for private profit seemed beyond argument, there were, nevertheless, cases where its unreserved application would be fatal to the Natives. He said:

"I am referring to the labour required by agricultural undertakings. In our primitive territories a plantation is a school of apprenticeship where the Native, well-fed, will, through his employer, learn to cultivate profitably on his own account. Once his apprenticeship is over, he will return home accustomed to regular food and having learned, with the use of new tools, the means of obtaining not only regular food but also, by the sale of his products, clothes, shoes and tools, thus entering into competition with the employer who taught him, whom indeed he may ruin as he enriches himself because he will produce at less cost and whom he is destined to replace in a future which may be not distant."¹

Allusion to a particular method of administrative intervention in recruiting in *French West Africa*, and especially on behalf of the forestry undertakings on the Ivory Coast, was made in a Circular No. 25 G. of 18 January 1925, addressed by the acting Lieutenant-Governor to the district officers of the Ivory Coast. In this Circular the acting Lieutenant-Governor said:

"It has become customary for employers to apply to the Lieutenant-Governor for an *authorisation* to recruit a given number of labourers

¹ *Journal officiel de l'Afrique équatoriale française*, 15 Nov. 1930.

in a given district. The Lieutenant-Governor then informed you by telegram of the authorisation, which, as far as I know, has always been given.

"It is precisely because this authorisation cannot at present be refused that it is useless; the considerations of the safety of the recruiters which may have led the Government to require it no longer exist. Further, this authorisation has neither legal sanction nor *raison d'être*, since the liberty of Natives to accept employment is formally recognised and it is only logical and equitable that the liberty to solicit them to accept employment should exist throughout the colony.

"From to-day, therefore, you will not have to request or await the authorisation of the Lieutenant-Governor. . . .

"I would call your particular attention to this question: is it your duty to exercise a 'certain pressure' on Natives to induce them to accept employment with the forestry undertakings ?

"My reply is that it is not possible, with populations as primitive as those of the Ivory Coast, to make the necessary distinction between an order of the district officer and a 'certain pressure'. These primitive people cannot conceive that the chief does not demand what he desires. . . ."

The authorisation system, which it was the intention of this Circular to abolish, was however restored in July 1925 on the return of the titular Lieutenant-Governor.

It is in *Madagascar* that the principle of the intervention of the administration in favour of recruiting is pressed furthest. Section 13 of the Decree of 22 September 1925 provides that the regional employment office "shall facilitate and supervise the recruiting of labour for public and private undertakings". It is true that section 36 of the same Decree specifies that before attesting the contract the head of the district or the secretary of the regional employment office "shall ascertain that the person engaged gives his free consent". In the light of this latter section, therefore, the former might be interpreted as not involving the exercise of actual pressure by the administration on the Native. Such an interpretation, however, becomes untenable if account is taken of the commentaries on the Decree made by the Administrator responsible for its elaboration, Governor-General Olivier, who writes as follows:

"Above statements of principle, alongside any theories, one brutal fact has always dominated the labour problem in the colonies: without the effective support, or, to be frank, without the pressure of the administration, nine-tenths of the European undertakings would have to face dissolution through lack of labour. . . . Here are men of our race, most of whom have laboured long and hard; often their lives have been nothing but a ceaseless struggle against fever, loneliness, the fluctuations of the market, the treachery of the elements, the devastation of their flocks by epidemic, the cyclone and the destruction of their plantations by the tornado. They represent the finest form of colonisation. They not only exploit the natural wealth of the land, they also create new wealth. The edifice which has been destroyed ten times and built up ten times is

threatened with fresh destruction. They appeal to the authority capable of preventing a catastrophe beyond remedy. Have we the right to shut our ears ? Have we the right to shelter behind a text ? Have we the right to take refuge under the cloak of a principle ?

"The theory of absolute liberty presupposes, on the part of the administration, a neutrality which it is impossible to maintain in practice unless the economic activity of a colony is to fall to ruin. . . . The policy of intervention has also certain disadvantages. It may involve abuses in such a matter. No matter what precautions are taken, account must be taken of the individual factor, the action of the administration varying in its form and consequences according to the personal temperament, the professional and moral character of the official responsible for its enforcement. All things considered, however, it is preferable to neutrality." ¹

In justification of his argument of the need for administrative intervention, Mr. Marcel Olivier points out that, although the labour system in Madagascar has fluctuated continually between absolute liberty and compulsion sanctioned by exceptional legal measures, in practice in spite of changing appearances the situation has remained unchanged. He is convinced that the administrative officers have not literally applied rules often dictated only "to conciliate home public opinion":

"The great change effected in 1900, when it was solemnly proclaimed that free labour would take the place of forced labour and privileged contract labour has undoubtedly led to but little change in the actions of the Governors and district administrators. Officially persuasion was to supersede compulsion. When, however, account is taken of the enormous prestige enjoyed even at that time by the agents of the administration, whether European or Native, the conclusion is inevitable that in the Native palavers the word 'advice' must have been often difficult to interpret. Moreover, the Native, accustomed to the severe rule of his rulers, must have had some difficulty in accepting the idea that the inflexible master of the day before had suddenly become a petitioner. It is sufficient to have even a slight knowledge of Native psychology to be sure that behind the façade of rules the vital needs of the country were satisfied, after as before 1900." ²

Support may be found for this passage in other sources. For example, the minutes of a meeting of the Tananarive Chamber of Commerce held on 4 July 1928 contains the following statement:

"The intervention of the administration, which in most cases is essential, is regarded in France, where there is complete ignorance of Native mentality and the needs of colonisation, as an obligation to labour infringing personal liberty. On account of this false conception held at home of administrative intervention, the heads of the Ministry and the Governor-Generals have never ventured to lay down precise rules for the recruiting of the workers needed for the public services,

¹ Marcel OLIVIER: *Six ans de politique sociale à Madagascar*, pp. 91-95.

² Marcel OLIVIER, *op. cit.*, pp. 78-79.

colonisation and industry. Nevertheless, administrative aid, which dates from the time of arrival of Galliéni, has always been accorded and has borne fruit. Mr. Valley declares that, during the twenty years he was in charge of a Province, he openly lent his assistance to those demanding it for obtaining labour for the various services and for colonisation without ever receiving the slightest reprimand. Such was the open practice even during the administrations of Mr. Augagneur and Mr. Picquicé, incautious as they were in proclaiming Native liberty, and to-day it is still the practice." ¹

On the other hand, in the *Netherlands Indies*, the intervention of public officers in favour of recruiting operations for private employers is not permitted. Further information will be given in Chapter VIII about the Djokja experiment, by which in 1929 the administration attempted to encourage the spontaneous flow of non-penal-sanction labour to the Outer Provinces. Although this was rather a placing than a recruiting system the fear was expressed that village headmen might, through a desire to please their superiors, be led from the unobjectionable publication of conditions of labour to indirect pressure calculated to induce the villagers to accept employment. In any event, the Djokja system ceased to function with the economic depression.

The procedure in *Italian colonies* is summarised as follows by Mr. Cucinotta, Professor at the Royal University of Rome and expert attached to the Italian Colonial Labour Commission of 1934, in his *Diritto coloniale italiano* (page 488):

" Usually, on the application of the employers, the regional authorities notify the Native chiefs of the amount of labour required and, according to the information received, they give or withhold their consent to the departure of the workers. In this way, the engagements are entirely voluntary."

The extent to which administrative aid is granted recruiters in the *Portuguese colonies* has been a matter of divergent appreciation. The intention of the Central Government, however, is indicated in the 1928 Native Labour Code. It is provided that all authorities exercising jurisdiction over the Native population or in the exercise of their functions coming into direct contact with the population shall be bound to facilitate the operations of all persons wishing to recruit workers, provided that the latter procure Natives to enter into contracts of employment by lawful means and in an honest manner.

¹ *Cahiers coloniaux de l'Institut colonial de Marseille*, 11 March 1929.

In section 37 of the Code, however, the facilities to be granted to recruiting agents are limited to the following:

- (1) Pointing out to them the places where, owing to the greater density of population, etc., recruiting can be carried on more easily.
- (2) Not hindering them in the exercise of their calling except by requiring strict obedience to the law or justifiable correction of a tendency to commit abuses.
- (3) Advising tribal chiefs and Natives either in the presence of recruiting agents or otherwise to obtain employment, but explaining to them in all cases that they are not in any way under an obligation to enter into a contract of employment with the recruiting agents in question.
- (4) Checking rumours of propaganda which in any way instil in the minds of the Natives false statements tending to prejudice the honest work of recruiting agents and employers and taking proceedings in accordance with the law against the persons who set on foot or propagate such false statements.
- (5) In any emergency affording them all the moral and material assistance which it is right and customary to give to persons travelling in the interior of the colony, provided that such assistance shall not be embodied in actions which may be interpreted by the Natives as coercion to compel them to enter into contracts of employment with the recruiting agents in question.

Moreover, in accordance with section 28 the authorities are forbidden:

- (1) to recruit Native workers for the employment of private persons either directly or through any officials or public employees who are subordinate to them;
- (2) to accompany recruiting agents or delegate their subordinates to accompany them on the journeys made in search of workers, provided that this prohibition shall not apply to cases where the authorities or their subordinates travel by chance in the company of recruiting agents, so long as they do so without any intention to coerce the Natives by their presence to enter into contracts or for the purpose of watching or supervising their activities;
- (3) to supply recruiting agents with Native police or other public employees to accompany them during their recruiting operations or to watch over Natives during their journey from the place where they are recruited to the place of employment;
- (4) to require a recruiting agent to pay any duty, fee, deposit or charge, the levying of which is not authorised by law, or any gift or bonus either for themselves or their subordinates, or for the tribal chiefs and Natives;
- (5) to prevent recruiting agents from offering any gifts to Natives whom they are endeavouring to recruit or to their tribal chiefs unless the offers are made on condition of repayment of the value received if the contracts are not accepted, or unless on condition that the tribal chiefs compel the Natives to enter into contracts;
- (6) to act in any other way not specified above which manifestly constitutes coercion of the Natives, or may be deemed to be an intentional infringement of the liberty of action granted to recruiting agents to engage lawfully and honestly in their calling.

§ 2. — Recruiting by Native Authorities ¹

The part which Native authorities may play in recruiting operations may also be theoretically divided into active recruiting and assistance to recruiters. No cases have, however, come to the Office's attention where the chief or other natural or recognised representative of the Natives in their relations with Europeans acts admittedly as a direct recruiting agent for the supply to employers of individual workers from among his people. Although this may be contrary to the stipulations of the law only in a few territories as where, for example, the recruiters must be Europeans (*British Solomon Islands Protectorate*, British employers in the *New Hebrides*), the general practice of some form of administrative control in the approval of recruiters appears to have proved sufficient to prevent such a situation arising.

On the other hand, it may be said that it is as usual as it is natural for Native authorities to show an active interest in recruiting operations taking place in their districts. To fail to do so, indeed, would be to abdicate their functions as intermediaries between the old and new cultures. The extent, however, to which this principle may and does lead the Native authority actively to encourage recruiting operations can hardly be clearly established. The considerations mentioned under the previous section (recruiting by public officers) are equally valid, the question often being one of the appreciation of the particular circumstances, and the differing policies of the Governments in regard to administrative persuasion there described inevitably react on the Native authorities. All that may be said with confidence is that in the earlier days of recruiting, the easiest and often the only practical means of obtaining labour was through arrangements with the chiefs, and that in practice in many parts of Africa the chief is often still the decisive element in deciding not merely what form of activity the Native shall undertake but in persuading particular Natives to accept particular employment.

In the case of the *Belgian Congo*, the Native Labour Commission in the report on its 1928 Session laid down the principle that the

¹ The term "Native authority" is used here not in the limited sense of a chief or council recognised by the Government under a system of indirect rule, but to cover all chiefs, headmen and other influential Natives whose authority is in fact recognised in Native society.

Native authorities should be associated with the administration in its action as regards recruiting:

"Although Native chiefs should not make use of their customary authority to compel certain of their subjects to accept European employment, there is no inconvenience in them acting in their sphere in the same way as the administration. In such a matter, however, particular prudence is necessary. They must be made to understand the difference between orders and advice. The remuneration they are granted in certain districts in recognition of their services should be considered legitimate in principle, but care should be taken that it does not give rise to abuses."¹

This argument has not escaped criticism. Mgr. de Hemptinne, expressing the opinion of the missionary leaders, wrote:

"The Native chiefs are supposed only to give advice and not orders. It is absurd to suppose that an employer will be so stupid as to pay for advice given by the chief, for payment is admitted in the report. What is expected of the chief is an abuse of his power. The money given him is in reality an act intended for the corruption of a public officer."²

The same opinion was expressed by the Native Labour Protection Committee during its Sixth Session (October 1930 and July 1931). The Committee clearly and unanimously condemns the system by which bonuses are paid to Native chiefs, stating that it forms "a veritable apprenticeship in corruption for these subordinate officials who are at the same time the first officials among the Natives". The offer or an acceptance of bonuses the Committee considers should be a penal offence.

The disadvantages resulting from the intervention of Native chiefs in recruiting have been vividly emphasised by Mr. Orts:

"Here again we come across that element of destruction which is recruiting. The Administrator allots to the chiefs the requisitions for the men the territory is called upon to furnish. As the calls for labour are endless, recruiting in practice becomes the principal function of the chief. Under the pretext that the chief is permitted by custom to distribute among his people the work which is to be carried out in the interests of the community, his right is recognised to nominate those persons who shall exile themselves to enter into white employment. The nominations he makes are nothing less than decrees of banishment by which the Natives are sent away for months, years, or for ever from their country, their wives, their children and the life in which they have been brought up. The system, moreover, gives the chief the opportunity of satisfying his personal hatreds, his desires and his greed. "Where recruiting takes place without administrative intervention and through the employers, the recruiting agent gets hold of the chief and exploits his venality. As the bishops say in their manifesto, the

¹ *Le problème de la main-d'œuvre au Congo belge*, report of the 1928 Commission, pp. 47-48.

² J. E. DE HEMPTINNE: *La politique économique et sociale du Congo belge*, Congo, Nov. 1928.

chief receiving an agreed sum for each worker supplied becomes a man-dealer.

"In both cases the principle on which the Decree concerning Native administration is founded is vitiated. Instead of being the natural protector of his people the chief becomes their oppressor. He loses their confidence, his authority is weakened, his people flee from him so that when they are near a frontier they flock into foreign territory. Recently 10,000 Natives in flight from excessive requisitions passed *en masse* into Uganda."¹

The managing committee of the Katanga Central Labour Agency, with the object of limiting such abuses and preventing suspicion falling upon their recruiting staff, submitted to the Minister a proposal to replace the gifts and grants made to the Native chiefs by payments into the tribal funds. This measure was approved by the Minister and came into operation on 1 May 1929. The bonus paid into the funds of the district of origin of each recruit varies with the district and period of contract from 70 to 125 francs in the Upper Katanga and from 20 to 35 francs in other regions. In communities where tribal funds have not yet been set up the chiefs are still remunerated by the recruiter.

Mr. Ryckmans states:

"Modest remuneration paid to the chief is justified to compensate him for the loss which may be caused by the departure of a certain number of his people in recognition of his authority and to gain his confidence so that he may not obstruct recruiting activities. It is, however, dangerous to go further and to grant the chief, instead of compensation for the departure of his people, profits to be gained by their departure."²

In *British* territories, as will be shown below, various practices have been made illegal by which chiefs may bring pressure to bear on their peoples to agree to be recruited. Nevertheless, the following account of conditions in a South African Protectorate administered by Great Britain suggests the need for constant vigilance if practical effect is to be given to such principles.

Dr. Schapera, Lecturer in Social Anthropology at the University of Cape Town, who has recently examined conditions among one of the *Bechuana* tribes, states:

"If a man has no cattle at all nor any other means of raising money with which to pay his tax, he may actually be drafted by the chief to work on the Witwatersrand gold mines. This practice is resorted to only as an extreme measure, when all other means of getting the man to pay his tax have failed, and it is applied principally to defaulters of several years' standing who would otherwise have to suffer imprisonment for their failure to pay. At most about fifty men a year are drafted off in this way. The chief summons the labour recruiting

¹ P. ORTS: *Le Congo en 1928*.

² *Rapport sur la Province du Congo-Kasaï*, p. 118-119.

agent from Zeerust or some other neighbouring centre to take them away; and the recruiting corporation, as soon as a man has been accepted for work on the mines, pays up to £2 10s. on his behalf to the tax collector."

He adds:

"In addition to the Government tax, there are the levies imposed from time to time by the chief to meet the costs of some large public undertaking. Such a levy generally takes the form of sending out all the men of a certain *mophato* (initiation regiment) to seek work amongst the Europeans, each man being required to bring back a stipulated sum of money. It is the deliberate policy of the chief that these men should go to work. Cases have come to my notice where men who attempted by the sale of cattle to raise the sum levied upon them have been explicitly ordered to earn it by working abroad—an insistence due to the chief's belief that such work will develop in his men regular habits of industry. In the past ten years almost all the middle-aged and younger men have been compelled to go out at least once to find money for the levies imposed upon them."¹

It has also been stated that in the Islands of the Pacific "beach pay" is general, the recruiter having in fact to bribe the chief before he succeeds in gaining access to the men he wishes to engage.²

The abuses to which such practice can give rise have led to the provision in certain British laws that any promises with regard to the supply of labour made by a chief shall be regarded as illegal.

Section 13 of the *South African Native Regulation Act*, 1911, provides that no person shall obtain or attempt to obtain from any Native chief, induna, headman or owner of the land on which Natives reside any concession or contract or promise with regard to the supply by himself or his people of Natives for employment either within or outside the Union, and no such concession, contract or promise shall be legally binding. In *Basutoland*, *Bechuanaland* and *Swaziland* no concession or contract by which any Native chief or headman binds himself or his people to provide Native labourers is valid. Almost identical provisions exist in *Northern and Southern Rhodesia* and *Kenya*.

In certain territories the offering of any gift to chiefs by recruiters is also illegal.

Section 66 of the *Kenya Employment of Natives Ordinance* provides that any person who shall give or shall offer to give any money or other gift to any gazetted Native chief or headman with a view to securing a supply of labour shall on conviction be liable to a fine not exceeding £15. The *Tanganyika Masters and Native Servants Ordinance* (section 57) makes similar provision with a maximum penalty of £50.

In the *British Solomon Islands Protectorate*, no person shall give any money or goods to any Native with a view to such Native permitting or inducing others to be recruited, or in consideration of such Native having permitted or induced others to be recruited (Solomons' Labour

¹ I. SCHAPÉRA: "Labour Migration from a Bechuanaland Native Labour Reserve", in *Journal of the African Society*, Oct. 1933.

² Cf. an article on "The Labour Recruiter in the Solomon Islands", in the *Sydney Morning Herald*, 2 Feb. 1934.

Regulations, 1921 section 10). In the *Mandated Territory of New Guinea*, till 1932, bonuses to chiefs were permitted but limited to £1 in respect of a recruited Native desiring to engage for three years, 15s. in respect of a two years' engagement and 10s. in respect of a year's engagement. In 1932, however, the law was amended to provide that a person shall not give any money or other gift to any Native, other than a Native recruited, by way of payment to induce any Native to enter into a contract. In *Fiji*, under section 113 of the Labour Ordinance, 1895, the bribing of a Native chief to produce labourers is an offence, and any chief or other Native accepting any payment or present in connection with procuring labourers is liable to a penalty.

With regard to the attitude taken in *French* territories towards the active intervention of Native authorities in favouring recruiting operations precise information is not available, but it appears to be much the same as the policy as regards the administrative encouragement of recruiting.

In the *Cameroons under French Mandate*, while collective contracts with Native chiefs are permissible for the execution of public works, they are not recognised in the case of recruiting for private employers.

"To authorise private persons to negotiate with chiefs of villages or more important groups, would be to permit the worst abuses. In many cases the chief would without hesitation alienate the freedom of his people permanently, thus exceeding the powers, generally very limited, which custom confers upon him. Even when custom confers absolute power on the chief, the exercise of such power, however legal it may appear, would in fact be a reaction which should be avoided. The administration has held to the rule that any spontaneous engagement by a Native should be permitted and that no objections should be entertained from the chief unless it is proved that the Native entered into the engagement with the object of avoiding the payment of taxes or the performance of his legal labour dues. To sum up, in the case of labour, no person is permitted to accept engagements on behalf of another."¹

In the *South Sea Islands under Japanese Mandate*, recourse is had to the good offices of the chiefs in the recruiting of labour for the Angaur mines. Apparently such chiefs receive bonuses and act as sub-agents to the recruiters.

In the *Netherlands Indies*, it does not appear that the Native authorities exercise influence in favouring recruiting operations. Mention has already been made of the fear expressed that this might happen under the Djokja emigration system. It may be said, however, that the situation of chiefs in regard to recruiting is rather that they tend to control recruiting operations than act in any way as auxiliaries in favouring recruiting operations.

Under the *Portuguese Native Labour Code* of 1928, section 38, which has been summarised above, prohibits Government authorities from requiring agents to pay bonuses to tribal chiefs. It also prohibits them from preventing the recruiters from offering any gifts to the tribal chiefs unless the offers are made on condition of repayment if the contracts are not accepted, or on condition that the tribal chiefs compel the Natives to enter into contracts.

¹ *Cameroons under French Mandate, Annual Report for 1931*, p. 6.

§ 3. — Professional Recruiters

Without going far back into the history of recruiting, the professional recruiter has been the subject of much criticism.

Lord Lugard states that "the employment of agents and touts recruiting labour on their own account among primitive tribes is to be deprecated".¹ The 1927 Kenya Labour Commission reports that "the farming community is generally strongly against the employment of 'professional recruiters' and in principle we support this view" (that the recruiter should be eliminated).

It is interesting to note, however, that Major Orde Browne, former Labour Commissioner for Tanganyika Territory, argues in favour of the professional recruiter. With official organisations he believes there is a risk of an element of labour compulsion and that the organisations may be unable to discriminate between good and indifferent employers. The association of employers, he finds, has its disadvantages in the difficulty of employing suitable agents and again in the impossibility of discrimination. Although in the past the free and untrammelled recruiter was usually a most undesirable person,

"the days when such methods were possible have now disappeared; in all countries regulations will be found which prevent the easy issue of a recruiter's licence to any applicant, while in most cases substantial security is demanded, previous reputation and past history also being examined. Methods and arrangements are scrutinised, and the recruiter is compelled to maintain a satisfactory organisation open to official inspection. . . . The entire success of the venture will depend upon the extent to which employers are satisfied, on the one hand, and the Native recruits are contented, on the other; since the business is intended as a serious one—the permanent and full-time occupation of its owner—any resort to trickery or deception becomes disastrous; the reputation of the concern is vital to its future, and the greatest possible care must be taken to preserve a good name. . . . It follows that the recruiter is extremely careful in his work; on one side he must try to find recruits who will give his clients satisfaction and who can be relied upon to make an honest effort to carry out the terms of their contract; on the other hand, he must avoid employers who may be unscrupulous or ignorant and thus upset his recruits, who will return home to discourage others from going to him. It thus follows that the private recruiter is a powerful supporter of the good employer, unlike the other systems of recruiting previously discussed." ²

In reality, the type of professional recruiter described by Major Orde Browne, although he is working for private profit and obtaining

¹ Lord LUGARD: *The Dual Mandate in British Tropical Africa*, p. 422.

² Major ORDE BROWNE: *The African Labourer*, pp. 54-55.

and supplying recruits on a commission basis, is rather the agent of an employer or a number of employers than a professional recruiter in the sense of a speculator in the Native labour market. In effect, the persons who recruit for their own private profit may range from (1) independent recruiters who supply labour to any employer; (2) recruiters who, while carrying on their operations independently of the employer, supply the labour only to employers to whom they have been previously accredited; (3) recruiters who, while paid for each labourer supplied, are under an agreement as to their recruiting operations with an employer or group of employers; (4) salaried servants of an employer or group of employers. In many instances the law, by defining the conditions in which recruiting may be carried on, limits the choice by the recruiter of the particular category to which he may belong. On the other hand, once recruiting conditions have been specified, the law usually does not concern itself with the particular status of the recruiter (except by granting special facilities to the employer-recruiter), and in common speech any recruiter who is not a salaried servant of an employer is often spoke of as a professional recruiter.

Nevertheless, the Office believes that there is an advantage in drawing a distinction between the professional recruiter and the employer's recruiting agent, and including in the latter category all persons whose activities are limited to supplying labour to a specified employer or employers. Unless all recruiting for profit can be abolished, the starting-point for the effective control of recruiting as shown by many laws and practices is the establishment of a fixed relationship, and therefore a mutual measure of responsibility between recruiter and employer.

The sole question therefore with which this section purports to deal is the relationship imposed by law between recruiter and employer. Wide variations will be found to exist. In some territories the recruiter has not to establish any such connection in justification of his claim to be allowed to carry on his activities. Elsewhere a statement of the names of the employer or employers to whom the recruiter is supplying labour is required. Elsewhere this is not deemed sufficient, and the employer must in some form endorse the recruiter's application for permission to recruit and this must be approved by the competent authority. Elsewhere again, in each and every recruiting operation the recruiter is required to produce credentials from the employer showing the number of men he is instructed to obtain.

In the *Belgian Congo*, the law regulates the position of the recruiter without taking account of whether he is working on his own behalf or for an employer, and he is under no obligation to establish an agreement with an employer. It may be noted, however, that in practice recruiting is carried on usually by employer's agents.

In certain *British* territories, on the other hand, the law imposes a close relationship between the recruiter and the employer, making the first an authorised and therefore limited agent of the second. The *South African* Native Labour Regulation Act provides in section 8 that a labour agent shall not act for more than one employer of Native labourers without the consent of the Director of Native Labour, and that the name and address of each employer so sanctioned shall be inserted in the licence. The same provision exists in *Swaziland*. In *Basutoland* and *Bechuanaland*, application for labour agents' licences must be accompanied by a statement in writing signed by the proposed employer. In *Northern Rhodesia*, by section 96 of the Employment of Natives Ordinance, 1929, and in *Southern Rhodesia* under section 10 of the Native Labour Regulations Ordinance, a labour agent may not act for more than one employer or company or association without the consent of a proper officer, and the name and address of each employer so sanctioned is inserted in the licence. In the *Mandated Territory of Tanganyika*, the form of permit for labour agents prescribed by the law provides for the mention of the names and addresses of the employers for whom recruits are to be obtained.

The *British Solomon Islands* Labour Regulation, 1921, provides in section 20 that the recruiter must hold in addition to his licence a letter of agency from the prospective employer authorising him to recruit a certain number of Natives. Similarly in the *Gilbert and Ellice Islands*, a letter of agency is necessary by which the employer authorises his agent to engage a specified number of Natives as labourers.

In the *New Hebrides*, any British subject who recruits Native labourers for employment with persons other than himself is deemed to be a professional recruiter. Every recruiter before proceeding on a recruiting expedition is required to give written notice of his intention to the Resident Commissioner, and if he is a professional recruiter, to give the names of the persons by whom he is employed, whose authority to recruit he shall produce to the Resident Commissioner with a statement of the number of labourers to be engaged for each employer. A professional recruiter may not recruit any Natives in excess of the number stated in his authority to recruit.

In *Fiji*, licensed agents, who are defined as persons acting as agents for the hiring and engagement of Fijian labourers for such employers as may appoint them for this purpose, require a letter of agency from the employers authorising them to engage a stated number of labourers.

In the *Spanish* possessions of the *Gulf of Guinea*, the 1906 Regulations provide that "private persons who wish to do so may freely engage mainland Natives (for employment on Fernando Po) either personally or through representatives or agents, under the supervision of the local governors, who will grant the necessary permission unless there are reasons to the contrary".

The law and practice varies in *French* territories. In *Madagascar*, section 1 of the Decree of 22 September 1925 provides that "the recruiting of Native workers for employment within or outside their district

of origin shall be effected by the employer or by his European or Native representative as approved by the regional employment office". In *Indo-China*, under sections 7, 8 and 18 of the Order of 25 October 1927, workers may not be recruited under a contract for a State of the Union otherwise than for a specific undertaking and the contract is concluded between the worker and the employer or his duly authorised representative. Applications for recruiting permits, when the recruited labour is to be employed in a State other than that of recruitment, are required to contain both the name of the employer and that of the recruiter.

In *India*, there would appear to be unregulated professional recruiting by labour contractors for the coal mines and other employment. For the Assam tea estates, the Tea Districts Emigrant Labour Act, 1932, provides for recruiting by licensed recruiters in restricted recruiting areas, under rules that may be issued by the Governor-General in Council.

In the *Netherlands Indies*, recruiting was for many years in the hands of professional recruiters. In 1930, however, professional recruiting was abolished and recruiting is now carried on by employers and their agents or their workers.

The *Portuguese Native Labour Code* of 1928 contemplates recruiting both by professional recruiting organisations and by non-profit-making associations of employers. The licence to be held by each, and the other conditions by which recruiting is regulated, are treated in the following chapter. Here, however, it should be noted that in all cases no persons may recruit for persons who are not authorised by licence (section 30 (3)). The general system of professional recruiting, as thus limited, is laid down by the Code as follows: It is provided that a certain number of recruiting agents may be established in each colony authorised to recruit workers on behalf of persons engaged in agriculture and industry in the colony. As a rule, the number of such agencies is not to exceed three in colonies not divided into districts, and two in each district in colonies so divided. The colonial Governor may, however, restrict or increase these numbers. If an employer wishes to procure workers through a recruiting agency, he sends to the Curator, or his local agent, a declaration in writing attested by a public notary to the effect that he confers upon the recruiting agency the necessary power to sign contracts on his behalf, and therefore undertakes full liability for carrying out the terms of the contracts and the other duties incumbent on him under the Code (sections 44 and 46). The Portuguese Native Labour Code thus does not contemplate recruiting operations for profit except by recruiters who are authorised by specified employers and for whose operations the employers accept full responsibility.

§ 4. — Recruiting by Employers and their Agents

The general provisions affecting this form of recruiting are summarised in the following chapter. In introduction to the information there given, however, a general account of the organisation of recruiting by employers in various territories—and notably of the important governmental or employers' associations existing in certain territories by which such recruiting operations are effected—may be given.

A form of employers' recruiting organisation under governmental auspices exists in the *Belgian Congo* under the name of *Bourses du Travail* (employment agencies). The formation of these agencies as limited liability companies was authorised by the Royal Decree of 12 September 1910, in the case of the Katanga agency, and by the Royal Decree of 22 October 1921 in the case of the Kasai agency. Their membership consists mainly of employers requiring labour, and their chief function is the facilitating of recruiting operations and the employment of Native labour.

A Circular of the Governor of the Katanga prohibits the issue of passes to Natives of the Katanga district unless such Natives make use of the Katanga Central Labour Agency (O.C.T.K.). The resulting monopoly enjoyed by the O.C.T.K. has been the subject of occasional criticism. The Governor of the Katanga, however, has pointed out that the O.C.T.K. is the only association organised to carry on recruiting operations for employment within the Katanga labour district and that if other recruiting agencies should be formed, and provide satisfactory conditions for the transport and the acclimatisation of the workers, they will be granted similar rights. It may be noted that the O.C.T.K. is a non-profit-making concern, recruiting for all its members, including the administration.

Important recruiting associations also exist in the *Union of South Africa* and the *Rhodesias* (Witwatersrand Native Labour Association, Native Recruiting Corporation, Rhodesian Native Labour Bureau, Native Labour Association).

In anticipation of the question of licensing, treated in the next chapter, it may here be noted that it is the individual labour agent employed by these associations who is required to be licensed and not the association itself. Although the establishment of individual responsibility undoubtedly helps to secure correct conduct, the question has been raised whether the association itself should not be subject to similar licensing. In evidence before the South African Native Economic Commission (1930-1932) Major Cooke, then Director of Native Labour, stated:

"... that only individual recruiters were licensed by the Department, that under the law there was no effective control of the organisations employing such licensed recruiters, but that if gross misconduct on the part of such organisations were shown they could be dealt with administratively. One such case had within his recollection been dealt with and the organisation had been eliminated."

The Commission strongly urged that:

"provision should be made that private recruiting organisations, if they are to continue to exist, should have to be licensed in the same way as individual recruiters. Full responsibility should be made to attach to the organisation as well as to the individual recruiter for the occurrence of such abuses as the luring away of juveniles without the consent of their parents or guardians."

An example of the highly developed type of recruiting organisation is furnished by the *Rhodesian Native Labour Bureau*, which was founded in 1912 and has recently gone into liquidation, following the decreased demand for Native labour.

The Bureau was not merely a recruiting agency, for, in addition to organising a labour supply, its Memorandum of Association provided that it should supervise generally the conditions of employment of all labour supplied by the Bureau by inspecting the provisions for housing, treatment and feeding of the employees, that it should facilitate, organise, supervise and protect the travelling of all Natives and other labourers proceeding to or from the various working centres in Rhodesia, and should organise, form and regulate such locations, depôts and bureaux for Natives and other labourers as the laws or administration might allow. Its capital was £250,000. All employers of labour were entitled to become members on the basis of the following subscriptions: (1) Up to and including 20 labourers, £1; (2) between 20 and 100 labourers, 10s. per head; (3) over 100 labourers, £1 per head. Members bound themselves not to employ or to recruit Natives except through the Bureau. For each member a maximum and a minimum complement was fixed of the number of Natives required and to each member was allotted the same proportion to his total complement as allotted to the other members. The board of management had power to charge fees on all Natives supplied to members, fixing the charges as nearly as possible to cover the Bureau's expenses. Finally, it was provided that no dividend out of profits should ever be distributed among the members. Should any money be accumulated after the provision of a reserve fund, such money was to be devoted towards the reduction of the cost of labour supplied or to the improvement in the business and organisation or extension of the operations of the Bureau.

An example of the relations between an employers' recruiting association and its agents is provided by the memorandum of agreement entered into by the Native Recruiting Corporation of *South Africa* and its recruiters.

Under this agreement the recruiter agrees to recruit and supply Native labourers for mines specified by the Corporation. The recruiter undertakes not to recruit Native labourers for any person other than those specified to him. The Native Recruiting Corporation reserves the power to instruct the recruiter to stop the supply of Native labourers subject to the payment to the recruiter of a retaining fee. The agreement specifies that the Native labourers to be recruited and supplied are to be Natives of British South Africa, south of latitude 20° S., and able-bodied adult males of good health and physique between the ages of eighteen and forty-five, capable of beginning work underground immediately they reach the mine for which they are recruited. The recruiter is to receive capitation fees for each Native supplied, varying with the districts and period of contract. The agreements are yearly, but if the recruiter commits a breach of any of the provisions the Native Recruiting Corporation is free to cancel the agreement.¹

¹ Reference is made to the Witwatersrand Native Labour Association, which recruits exclusively in Portuguese East Africa, in Chapter VII.

In *Madagascar*, an important rôle in recruiting operations is filled by the governmental employment offices organised under sections 9-15 of the Decree of 22 September 1925. The Central Employment Office has as its functions the collection, co-ordination and publication of information and statistics concerning the labour required and available, and applications for and offers of employment in the colony. It also supervises the regional employment offices. The regional employment offices set up "in each province or district where it is considered necessary" are permanent links between capital and labour. Each office is instructed to serve as an intermediary between European and Native employers and Native workers, to facilitate and supervise the recruiting of labour for public and private undertakings, and to keep in touch with the neighbouring regional offices and with the Central Employment Office. The regional office attests and registers contracts of employment, makes recommendations concerning the normal rates of wages for each class of work and gives its opinion on all questions concerning labour within the region. It is composed of the following persons, under the chairmanship of the head of the Province, or his delegate, or the head of the district: the labour inspector when in the region; one or two delegates of the Chamber of Commerce, or the Advisory Chamber; the medical inspector of the Medical Service for Natives; an official of the Public Works Department; one or two Native notables; and a paid permanent secretary.

As the above description suggests, the regional employment offices, as defined by the Decree, might be considered to constitute public employment agencies in the full sense of the phrase. In practice, however, it is more correct to treat them as a part of the machinery for recruiting by employers and their agents, since application for employment is not made to them and the initiation of recruiting operations is left to the employers who, to this end, make use of the services of Native recruiters. The administration of Madagascar, in reply to the Ministerial questionnaire on labour conditions, gave the following account of the way in which recruiting is most frequently carried on:

"It is very rare for a Native to offer himself as seeking employment. The employers are obliged to seek out and solicit the labour required by them. For this purpose they send into the villages Native recruiters, to whom they pay bonuses for each worker engaged. When an employer has a reputation for keeping his promises, the head of the district informs the recruiter of the Natives without regular occupation who may be recruited and if necessary calls them together so that they may reach agreement with the recruiter."

In the *Netherlands Indies*, as has already been explained, recruiting is unregulated, except when carried on in Java and Madura for employment under penal sanctions in the Outer Provinces. Two employers' organisations, the *Algemeen Delisch Emigratie Kantoor* (A.D.E.K.) and the South and West Sumatra Planters' Association operate through recruiting agents under the system known as the *Eigen Werving*. It has been proposed that the depôt managers should receive a fixed salary, instead of remuneration by head, and that recruiters should be engaged by them and given a limited field of activity where recruiting by other agents would be prohibited.

§ 5. — Recruiting by Workers

It has often been said that the satisfied worker is the best recruiter. Even in areas where recruiting is the normal means of maintaining the labour supply, many established undertakings are able to rely on a labour clientele which, consisting of ex-workers, their relatives and friends, spontaneously offers its services either at the place of employment or by merely demanding of the recruiter facilities to reach the place of employment. In these circumstances no attempt is usually made to treat the Native obtaining the labour as a recruiter or to control his activities in so far as they are not made the occasion for fraud or oppression, or do not infringe regulations controlling the movements of Natives. Where, as in Africa, the use made of the services of such workers is not commercialised by the systematic payment of rewards for recruits, it appears not unreasonable to regard the operations as merely encouragement to spontaneous engagement, or as a preliminary to an act of recruiting which is effected and controlled when the new worker is brought into contact with the employer or his authorised agent.

At the other extreme are certain very primitive territories in the South Seas where the legal definition of recruiting covers all or most ways by which a Native may enter European employment. Natives may here not be permitted to take part in recruiting, and in some territories they are, as mentioned above in § 2 (Recruiting by Native Authorities), prohibited by law from so doing.

In Asia there are some important cases where the worker or ex-worker of an undertaking is an important factor in recruiting and is remunerated according to an established tariff. Sometimes his activities are controlled by the administration, while elsewhere, in spite of recruiting laws, he remains outside their practical application. The regulation of the system appears to be necessary, as otherwise the pseudo-worker-recruiter is given an opportunity of practising in circumstances more difficult to control than those of licensed recruiters carrying on large-scale operations. Such regulation is particularly important where the worker-recruiter is a foreman, jobber or even a labour contractor on a small scale. In such cases, while it is difficult to establish a clear distinction, there would appear to be a point at which the worker-recruiter becomes a recruiting agent or a professional recruiter.

The most notable and strictly regulated example of recruiting by workers is the *kangany* system by which labour is obtained in India

for employment in *Ceylon* and *British Malaya*. This system is described more fully in the chapter on migrant workers. Here it will suffice to mention that the Indian Emigration Rules specify that a *kangany* must be an Indian of the labouring class who has been employed as a labourer for not less than three months under the employer for whom he recruits, that he must be in possession of a licence, that he may only recruit within a fixed area usually coinciding with his village, that the number of recruits is limited to twenty, and that the head-money he receives is officially fixed and is kept at a low figure.

In *French Indo-China* recruiting is often effected through workers, though here the system has not been regularised in spite of efforts on the part of the administration and of employers. In particular, reports from Tonkin emphasise the important part played in recruiting operations by foremen (*caïs*), who in many cases are, in fact, labour jobbers, recruiting and paying the workers themselves. Efforts made by the administration to ensure that all workers in any undertaking work under the direct control of the proprietor or manager have encountered great difficulties. Employers have seen their whole labour force desert when they have tried to do without the intermediary of the *caïs*, who thus appear to be virtual dictators of the labour market. In Laos the same custom exists under the name of "marchandage". Undertakings both purely private and for the execution of public works are to be found, the labour system of which hinges on the operations of a jobber who often himself contracts with other jobbers for the supply and control of labour.

Recruiting inland employment in *India* by *kanganies*, *maistries* or *sardars* may be identified for the purposes of the present Report with recruiting by workers, although in some cases they might more exactly be treated as recruiting by the agents of the employer. Actual workers are employed as recruiters especially by planters in North India, namely in the Terai and the Dooars in Bengal and in Assam. In none of the cases here mentioned is recruiting subject to legislative provisions except when it is carried on for the tea gardens in Assam, for which recruiting is prohibited in so-called restricted recruiting areas except through licensed recruiters, licensed forwarding agents, and certificated garden sardars. As regards the latter, the Tea Districts Emigrant Labour Act of 1932 provides that the owner or manager of a tea estate may grant to any person employed on the estate as a labourer or in a position of supervision or management a certificate empowering him to recruit labour for the estate in the whole or any part of a restricted recruiting area. In principle such a certificate will suffice to empower the person to whom it is granted to act as a garden sardar in the area specified. The local Government having jurisdiction over any restricted recruiting area may however make rules directing that certificates of garden sardars or of specified classes of garden sardars shall not be valid in any district in any such area until they have been endorsed as valid by the competent authority. Moreover, the local Government of Assam may make rules (a) regulating the procedure of owners and managers in granting and withdrawing such certificates; (b) prescribing the form and particulars of such certificates. The district magistrate of any district in respect of any part of which a garden sardar holds a certificate may cancel the certificate if he is satisfied that a garden sardar has contravened any of the provisions of the Tea Districts Emigrant Labour Act, 1932, or of the rules made thereunder.

In the *Netherlands Indies* the recruiting of workers in Java and Madura for employment under penal sanctions in the Outer Provinces is effected, as well as by employers' recruiting agents, by estate workers

who have returned from their employment or are on leave of absence. In theory such recruiting would appear to fall under the law concerning recruiting by employers (Ordinance of 4 December 1915). In practice, however, recruiting by workers has developed outside the scope of the law so that the provisions of the law are of no practical consequence in the case under consideration. This recruiting system is used only by the V.E.D.A., an association of the Deli Tobacco Planters and other planters on the East Coast of Sumatra. The V.E.D.A. has succeeded in securing an appreciable standard of honesty from their worker-recruiters, in consideration of which fact the Director of the Batavia Labour Office has, in virtue of a provision of the 1931 Coolie Ordinance, relaxed certain requirements regarding the conclusion of contracts in the case of workers recruited under the system. At the same time, however, various special stipulations have been made, notably for the prohibition of the direct or indirect payment of recruiting bonuses or other remuneration proportionate to the number of recruits obtained. Worker-recruiters are issued with a letter of introduction from their employers, while their activities in recruiting areas are supervised by representatives of the V.E.D.A.

§ 6. — Auxiliary Recruiters

The person directly responsible for the conduct of recruiting operations, who, as is shown in the next chapter, must provide some guarantees of his good conduct and is often a European, is usually assisted by Natives known as runners, messengers or Native assistants. Since actual recruiting abuses are often due directly to these assistants, the recruiter himself being careless in the supervision of them or conveniently blind to their activities, certain of the laws regarding recruiting provide for a strict control of the appointment and activities of the auxiliary recruiter, without releasing the recruiter himself from responsibility for their actions.

This is notably the case in *British* laws.

In the *Union of South Africa*, *Basutoland*, *Bechuanaland*, *Swaziland*, *Southern Rhodesia*, *Northern Rhodesia* and the *Mandated Territory of New Guinea*, the employment in recruiting operations of runners or assistants is subject to a permit issued by the competent authority on application by the licensed recruiter. No such auxiliary recruiter is allowed to exercise his calling for more than one recruiter. In some cases (e.g. *Swaziland*, *Northern* and *Southern Rhodesia*) he is required to wear a distinctive uniform or badge.

In the *Mandated Territory of Tanganyika*, a labour agent may not employ a recruiting assistant unless he has notified the officer who has issued his permit of the name of the assistant and received his written consent. In *Kenya* and in *Uganda*, the labour agent is also required to notify the authorities of the name of any assistant so employed.

In *Papua*, an employer or licensed recruiter may make use of the services of a Native assistant to obtain recruits if such assistant has entered into and remains under a contract of service for the special purpose of recruiting. In addition an employer or licensed recruiter may

make use of the services of any local Native in recruiting operations provided that the place where the recruiting takes place is not more than ten miles from the village of the local Native assistant. In either case, the assistant may not operate more than ten miles from the place at which the employer or recruiter is at the time of recruiting.

In the *British Solomon Islands Protectorate*, it is provided under section 10 of the 1921 Regulations that any person may make use of a Native as an interpreter for the purposes of obtaining recruits and may remunerate him for his services. No agreement however may be made by which the amount of such remuneration is made in any way to depend on the number of recruits obtained.

In the *French colonies* provision for recruiting by Natives is met with in *Indo-China*, where in fact the supervision of recruiting under the Governor-General's Order of 16 July 1930 is based on the control of these Native recruiters rather than on that of their employers. Before undertaking any recruiting operations the chiefs of the "emigration agencies" are required to supply the administrative authority with a list of all agents employed by them, and they are also required to notify the authorities of any changes effected in their staff. Any person recruiting without being so notified to the authorities is liable to police penalties. Should the competent authority consider any of the agents undesirable (lack of sufficient guarantees by reason of antecedents, acts of oppression, etc.) the emigration agent is required immediately to dismiss the person concerned. It is not necessary for the authority to give any explanation of the reasons for requiring such action, and, if the emigration agent does not act as invited without delay, all his recruiting permits may be withdrawn, including those under which recruiting is actually being carried out. Moreover, on pain of having all the recruiting permits withdrawn no other agency may take on any employee dismissed in these circumstances.

In the *Netherlands Indies*, no special provisions regarding auxiliary recruiters are contained in the laws. Nevertheless, in virtue of the power reserved in the licences granted to the *Eigen Werving* organisations prohibiting the licensees or their representatives from employing persons designated by him, the chief of the Labour Inspectorate may exclude from recruiting operations auxiliary recruiters who have been guilty of misconduct. In practice, the *Eigen Werving* organisations very often make use of the services of touts whose antecedents are unknown, since they come forward with the recruited coolies and vanish as soon as they receive their remuneration. To put an end to this system it has been proposed to entrust the main recruiting operations exclusively to persons of good reputation employed by the managers of the dépôts. Each auxiliary recruiter would have his own district of operations, where recruiting by other persons would be prohibited. Since the auxiliary recruiter would be limited to one district, it would be in his interest to keep the esteem of the Native population, as otherwise he would risk his livelihood.

Under the *Portuguese Native Labour Code*, assistant recruiting agents are required to be licensed by the competent authorities. If European, the assistant agents may be authorised to sign contracts on behalf of the employer. It may therefore be considered in any international review on the subject that such agents are recruiters in the full sense of the term. Native assistants, however, are not competent to sign contracts. Their licences are granted by the Curator, who, before issuing the licence,

is required to see the applicant, verify his identity and ascertain whether he speaks Portuguese fluently. The authority competent to grant an assistant's licence is bound to refuse it on becoming aware that the person recommended has had a licence cancelled on account of unlawful actions committed in the course of recruiting if such actions constitute ill-treatment of Natives, extortion or violence.

§ 7. — Recommendations of the Committee of Experts on Native Labour

As shown by the information given above, in spite of wide variations in the details of legislation and in actual conditions, there is general agreement in theory, law and practice to condemn direct recruiting operations by governmental or Native authorities. Subject to somewhat varying interpretations in practice of the duties of these authorities to encourage habits of industry, there is also general agreement that the intervention of such authorities in recruiting operations must be cautious unless the principle of forced labour is admitted.

This means that the principal agents in recruiting operations are the private recruiter, who, often professional in the sense that his livelihood depends on his recruiting operations, has generally been incorporated in the recruiting system as an agent of an employer who accepts certain responsibilities for his actions, the employer himself, his employed agents and organisations of employers, or the worker-recruiter.

The following is the text of the principles adopted by the Committee of Experts on Native Labour in regard to the agencies of recruiting. For reasons of convenience, although the experts preferred to deal in a special manner with the case of worker-recruiters, their recommendations regarding the regulation of this method of obtaining labour are also attached:

C. — RECRUITING AGENCIES

(1) Public officers. — *Without prejudice to the recognised duty of the competent authorities to encourage the populations under their charge to engage in some form of labour, public officers should in no case act either directly or indirectly as recruiting agents for private undertakings.*

(2) Chiefs. — *Chiefs or other Native authorities should in no case be employed as recruiting agents. When it is considered desirable or necessary to have recourse to their good offices, care should be taken that they exercise no pressure upon prospective recruits. They should receive no remuneration either directly or indirectly and any abuses should be severely checked.*

(3) Professional recruiters. — *Professional recruiting should be prohibited except where the recruiter is a person or association to whom a licence has been issued in accordance with the conditions hereinafter*

provided and who is acting on behalf either of an administration or of one or more specific employers or organisations of employers.

(4) *Employers. — Without prejudice to the provisions of section E below, recruiting by employers or their agents, or by organisations of employers or organisations subsidised by employers or the agents of these organisations, should only be permitted under licence issued by the competent authorities in accordance with the conditions hereinafter provided.*

(5) *Recruiters' assistants. — All persons employed by a licensee in a subordinate capacity to assist in actual recruiting operations (messengers, runners, etc.) should be approved by a public officer and furnished by the licensee with a permit. Without prejudice to any penalties for contraventions of the regulations concerning recruiting, they should be liable to dismissal from employment if found guilty of any act unfitting them for such employment.*

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E. — OBTAINING OF LABOUR BY WORKERS

The manual workers employed by a given undertaking may be commissioned by their employer to obtain the labour of other workers for the same undertaking on condition that:

- (a) *the remuneration they may receive is not of such a nature or such an amount as to constitute an incitement to deceive prospective workers regarding the conditions of employment;*
- (b) *they are permitted to act only in the neighbourhood of their homes;*
- (c) *they are in possession of a permit issued by the employer and countersigned by a public officer;*
- (d) *their operations are supervised in such manner as may be prescribed by the competent authority.*

CHAPTER V

THE ADMINISTRATIVE CONTROL OF RECRUITING AGENTS

§ 1. — Licensing of Recruiters

The regulation of recruiting in the territories of *Great Britain* and of the *Dominions*, in the *Netherlands Indies* (final sanction workers), in the *Philippine Islands* and in the *Portuguese Colonies* is based on the prohibition of recruiting operations unless effected under the immediate control of persons specifically approved by the authorities. In other words, although for the protection of workers entering employment obligations may be imposed on employers without regard to the persons who may act as their agents, the soliciting of labour which does not offer itself spontaneously is considered in these territories as satisfactorily controlled only if the operations are effected by persons known to the authorities and registered with them, whose livelihood is in fact dependent on their retaining the approval of the authorities.

This approval is signified by some form of licence issued to the recruiter on condition that he has satisfied certain requirements and withdrawable in certain circumstances. The details of such licensing will be summarised below. In the first place, however, it is necessary to mark the extent to which certain colonial territories form an exception to what is the central principle in recruiting legislation.

In the *Belgian Congo*, although in practice the control of recruiting organisations is so stringent that for example recruiting for the *Katanga* is in fact limited to one association, as far as the issue of personal licences is concerned it is sufficient for a recruiting permit to be obtained by one of the several persons who may form the personal link between the Native in his village and at his place of employment. Thus, if the employer holds a recruiting permit, his agent working under his responsibility need not necessarily obtain a personal permit. Since, nevertheless, permits are required for every recruiting operation, the Belgian case, even if

a limited form of the more general rule that all recruiting operations should be under the direct control of licensed persons, may be said to form no exception to the main principle that recruiting is only permitted under licences issued solely to persons approved by the authorities.

In the *French* territories where recruiting takes place, the practical effect of the laws and regulations is to require a certain measure of administrative approval for the persons by or on whose behalf labour is recruited. In certain cases this approval closely approaches a system of licensing.

In the *Cameroons under French Mandate*, a permit from the Commissioner of the Republic is necessary for the recruiting for private enterprise of Native workers by a person either on his own account or on account of another in a sub-division other than that in which is situated the undertaking where the workers are to be employed (Decree of 9 July 1925, section 7). In *Madagascar*, the recruiting of Native workers for employment within or outside their district of origin is effected by the employer or by his European or Native representative "as approved by the regional employment office" (Decree of 2 September 1925, section 2). In *French West Africa*, or at any rate on the *Ivory Coast*, the practice appears to have established itself of employers applying for permission to recruit from the Lieutenant-Governor, although this does not appear to be legally necessary and although permission has apparently never been refused. In *Indo-China*, the emigration agencies are required to furnish the authorities with a list of their agents and immediately to dismiss any agent to whom the authorities take exception.

In the *Spanish* possessions of the *Gulf of Guinea* and in the *Italian* colonies, the authorisation of the competent authorities appears to be required.

As is shown in the discussion of the various definitions of recruiting in Chapter I, the agents by whom labour is obtained by recruiting are not always required to have official sanction to recruit. In particular, the requirement may not exist where the employer personally seeks the labour he needs, where the labour is obtained in the vicinity of the place of employment, or where only a small number of workers are recruited. Nevertheless, these exceptions are exceptions to the regulation of recruiting rather than to the requirement of some form of approval for the agents of regulated recruiting.

The general situation appears, therefore, to be that, with such exceptions as may be justified by the scale or range of the recruiting operations, the method of recruiting and the degree of development of industrial relations, the administrative approval of the agents of recruiting is required in some form and is essential to the

regulation of recruiting. In applying this principle, the competent authorities have usually found it necessary to take discriminating powers in regard to the individuals who may be permitted to carry on recruiting operations. These powers are exercised by providing that the person or body desiring to recruit labour (employer or recruiting organisation or recruiting agent or agent's assistant or any of these agencies acting together) shall be required to apply for permission in some form before being allowed to approach the Natives with a view to recruiting.

§ 2. — Licensing Authorities

The first question to which attention may be drawn is that of the authority empowered to grant recruiting licences. In view of the widely different local conditions and administrative systems, it is of doubtful value to attach importance to the part of the administrative machinery which controls the selection of the recruiting agents authorised by the law; for the same reason, it would be difficult to lay down an international rule on this point.

The tendency, however, is to make this licensing authority as high as possible and covering the widest area practicable. The local officer may be best able to gauge the effects of recruiting operations among the peoples under his charge, and the suitability of any local person to be entrusted with such operations. But his reports and opinions are of the greatest value if compared with those of his fellow-officers. Furthermore, unless control of the choice of the recruiter is to a certain extent centralised, it is possible for a recruiter to pass from district to district committing no offence which will invalidate his application for a licence in other districts, but generally acting with such irresponsibility that no single authority is likely to give him a second chance. Thus, if recruiting is to be kept reputable and to foster rather than to injure the labour supply, it is advantageous for the operations of each individual engaging in recruiting to be so controlled that the whole of his activities can be estimated, rather than that his operations in one particular district alone be subjected to review.

In practice, centralisation is not at present found everywhere. Where it is not effected, however, attempts are made, as will be seen from the following summary of law and practice, to correct the local authorities' limited knowledge by requiring the approval of recruiting operations in the districts both of recruiting and of employment or by vesting in a higher authority responsibility for

longo, the General Administrative Ordinance of
les that the recruiting permits shall be issued by
ioners or administrators on the recommendation
horities of the place of employment. As will be
per place below, the question whether security is
in the hands of the Provincial Governors.

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f recruiting licences is to be found in the territories
of the *Dominions*. Licences are generally issued by
ial authority and only the approval of auxiliary
he local authority.

South Africa, the Native Labour Regulation Act
lity for the issue of licences in the Union Director
The granting, refusal, endorsement and renewal
he discretion of the Director, subject to appeal to
ts for Native runners, however, may be obtained
strates.

Bechuanaland, licences and runners' permits are
ent Commissioner or some person duly authorised
mmissioner. In *Swaziland*, the granting, refusal
y licence is at the discretion of the Resident Com-
sistant Commissioner may issue permits for runners.
a, applications for licences are made to the local
Natives, but in *Northern Rhodesia* to the central
Affairs, and for runners' permits to the district

ices are issued by the Resident Commissioner of the
cial Commissioner of the place of employment.

Territory of Tanganyika, the licensing power was
istrict officers until 1929, when the functions were
entral Labour Commissioner. The report of the
or 1929 states that "the advantages of the alteration
icular it created one central authority to deal with
permission to recruit, thus enabling a much closer
ined. It consequently was no longer possible for
rson, who had been prevented from recruiting in
ze to another area and start afresh. Far closer
organisation and methods of recruiters also became
derable amount of information on such subjects
ed." The suppression of the Labour Department,
tain decentralisation necessary in 1931. Licensing
nsferred back to the district officers but vested in
mmissioners, there being eight provinces in the

India, licences are similarly issued by the Provincial

London Islands Protectorate, applications to act as
o the district officer of the district where the appli-
s. In the *Gilbert and Ellice Islands*, however, and
, in the case of recruiting by British subjects, the
--- is the Resident Commissioner for the whole of each

In the *Mandated Territory of New Guinea*, although the district officer may issue licences, he may only do so subject to the consent of the Director of Native Affairs, to whom all applications are forwarded. In *Papua*, licences may be issued by any person authorised by the Lieutenant-Governor. The guarantee demanded of all recruiters, however, is forwarded to the Central Commissioner for Native Affairs.

In British territories where recruiting is only subject to licence for employment abroad, the competent authority is in all cases the Governor or an officer of the central administration.¹

In the *Netherlands Indies*, the Director of Justice is responsible for the approval or cancellation of licences, while the Chief of the Labour Inspectorate may prohibit the employment of certain persons by licensees.

Recruiting licences in the *Philippine Islands* are issued by the Bureau of Labour subject to the approval of the Secretary of Commerce and Police.

In the *Portuguese Colonies*, in accordance with the Native Labour Code of 1928, the Governor of each colony is made responsible for granting all licences except licences for assistant recruiting agents and private recruiting agents, which may be granted by the Curator or his agent. When he considers it desirable, the Governor of a colony may delegate to the Curator the granting of licences for recruiting for the recruiter's own service. Moreover, in colonies divided into districts, the Governors of the respective districts may be empowered to grant licences for recruiting for the recruiter's own service if the operations take place exclusively in the one district and for employment within the district.

In *Mozambique*, the Ordinance of 4 September 1930 in application of the Native Labour Code vests the licensing authority in the Governor.

§ 3. — The Issue of Licences

Recruiting laws usually leave a wide discretion to the licensing authority in regard to the granting or refusal of licences, though where the licensing authority is not the highest central authority, appeal is sometimes allowed to the latter authority in the event of the refusal of a licence. The laws aim at excluding from recruiting operations not merely persons who have already been convicted of serious labour offences, but all persons whose proper conduct as recruiters is not a matter of reasonable presumption. In some cases this is emphasised by the formality in which applications for recruiting licences are required to be made, or the requirement that the application must be endorsed by the prospective employers of the recruited labour.

Occasionally the law limits the issue of licences to European or non-Natives and to men, while where the law provides no such limitation, administrative practice may have the same result.

¹ See Chapter VII.

Without entering into the controversial questions of racial and sex discrimination it is not difficult to realise that in certain areas limitations of this nature may be held to be necessary.

In the *Belgian Congo*, the General Administrative Ordinance of 18 June 1930 provides that permits for the recruiting or engagement of artisans, workers, porters and boatmen shall be issued by the district commissioners or administrators on the recommendation of the territorial authorities of the place of employment. In accordance with the regulations, these authorities are required to fix the number of workers who may be recruited in their districts. Recruiting permits may be refused, suspended or withdrawn if the applicant is guilty of serious and repeated offences against the labour laws, if he does not offer sufficient guarantees of his moral conduct, or if a case is pending against him. Reasons are required to be given for the refusal, suspension or withdrawal of a permit, and notified in writing to the applicant.

In the *British Commonwealth*, requirements vary as to the possession of recruiting licences by employers recruiting for their own personal service.

In the *Union of South Africa*, under section 5 of the Native Labour Regulation Act, employers recruiting on their own account are required to be in possession of a licence. No licence, however, need be held by any person engaging Natives for employment in farming, agricultural, horticultural, irrigation, stevedoring or shipping operations; or in domestic service or in any shop or store; or, if authorised, engaging Natives at any compound of a Native Labour Bureau; or not employing more than twenty Natives at any one time.

In *Basutoland*, the definition of a labour agent in the Native Labour Proclamation covers employers, except those not employing more than twenty Natives at one and the same time, and no employer may act as a labour agent unless he is the holder of a licence. In *Bechuanaland*, any person obtaining labour for employment beyond the borders is defined as a labour agent and requires a licence. In *Swaziland*, recruiting as defined covers all engagements for employment outside the territory and is similarly subject to licence.

In *Southern Rhodesia*, no person may recruit Natives for his own employment unless he is the holder of an employer's recruiting licence, though no such licence is required by any person engaging Natives on or about his own premises for employment within Southern Rhodesia. In *Northern Rhodesia*, a labour agent, who is required to be licensed, means any person who obtains labour for other persons for employment within or without the territory and also any person who obtains labour for himself for employment beyond Northern Rhodesia.

In *Nyasaland*, recruiting in any district for service outside the district is subject to licence. In the *Mandated Territory of Tanganyika*, under the Master and Native Servants' (Inter-District Recruiting) Regulations, 1923, permits are similarly required for recruiting Native servants for service outside the district. The same obligation exists in *Uganda* as a result of the definition of labour agents.

In the *Mandated Territory of New Guinea*, under section 29 of the Native Labour Ordinance no person may recruit Natives without a recruiter's licence, provided that Natives may be engaged for duties of a purely household character without the employer obtaining a licence. In *Papua*, in addition to an exception for the recruiting of Natives for domestic service, an employer may personally, or by a European overseer,

recruit Natives to work in any capacity for himself without a recruiter's licence.

In the *British Solomon Islands Protectorate*, all employers must hold permits issued by the competent authorities before they may engage labour under contract. Similarly, in the *Gilbert and Ellice Islands* and in *Fiji*, agents are required to be licensed for recruiting purposes, and, in addition, any person engaging labourers for a period exceeding one month must obtain a permit. In the *New Hebrides*, British employers recruiting on their own account as well as recruiting agents require to be licensed.

In the case of recruiting by labour agents, licences issued by the competent authorities are required in the *Union of South Africa*, *Basutoland*, *Bechuanaland*, *Swaziland*, *Southern Rhodesia*, *Northern Rhodesia*, *Nyasaland* (for employment outside the district of recruiting), the *Mandated Territory of Tanganyika*, *Kenya*, *Uganda*, *North Borneo*, the *Mandated Territory of New Guinea*, *Papua*, the *British Solomon Islands Protectorate*, *Fiji*, the *Gilbert and Ellice Islands* and the *New Hebrides* (British subjects). Agents recruiting for service abroad are also required to obtain licences in certain territories where recruiting for service abroad is alone regulated (see Chapter VII).

The following form of application for a labour licence provided by the *Northern Rhodesian Employment of Natives Regulations, 1931*, is substantially the same as the forms prescribed in the *Union of South Africa* and *Southern Rhodesia*. It indicates the considerations the authorities have in mind in granting or withholding licences. It is to be noted that in these territories the prospective employers of the recruited Natives are required to sign the forms as authorising the agent to recruit on their behalf.

Form of Application for Labour Agent's Licence

1. Name in full
2. Nationality
3. Address
4. Ordinary occupation (if any)
5. Whether ever previously engaged in recruiting or holder of a labour agent's licence
6. Whether ever convicted of an offence under any labour agent or recruiting law or regulation.....
7. Provinces or Districts for which licence is desired
8. Place or places where natives recruited are required for employment ...
.....
9. Names and addresses of two references in District in which applicant resides
10. Particulars of security.....
I
of

do solemnly and sincerely declare that the particulars set forth in the accompanying application form are correct, and that the attached is a true copy

of the agreement entered into by me with my employers. And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declaration Act, 1835.

Declared at.....
 this day of 19.....
 Before me
 J.P.

.....
 (Signature of applicant)

I/We, authorise to recruit
 Native labourers and enter into contracts with them under the Employment
 of Natives Ordinance, 1929, on my/our behalf.

.....
 (Signature of employers)

In some British territories the laws lay down various special conditions regarding the persons to whom recruiters' licences may be issued.

In the *Union of South Africa*, it is a condition on every labour agent's licence and runner's permit that the holder shall not engage in the sale of intoxicating liquors, be in the service of any person holding a liquor licence, or be employed in any capacity on a trading site where intoxicating liquors are sold.

In the *Mandated Territory of New Guinea*, except with the express authority of the Administrator, no recruiter's licence may be issued to a female or to any person who is not a European. In *Papua*, an agent must be a European. In the *British Solomon Islands Protectorate*, no person, other than a European in the regular service of the holder of a permit for the employment of Native labour, may act as agent for such permit holder in the recruiting of Natives for service under contract. The usual practice in *British African Dependencies* appears also to limit the granting of licences to Europeans.

In *India*, under the Tea Districts Emigrant Labour Act, 1932, relating to recruitment for the tea gardens in Assam, a licence is needed by any person wishing to act as a local forwarding agent in a controlled recruiting area or as a recruiter (not a "garden sardar") in a restricted recruiting area.

With regard to licences of recruiters, the granting of which is in the power of the district magistrate, the Act authorises the Governor-General in Council to make rules prescribing the requirements which prospective licensees have to meet. Moreover, the Local Government having jurisdiction over any restricted recruiting area may make rules (a) regulating the procedure of the district magistrate in granting recruiting licences; (b) prescribing the form and particulars of such licences and the fees to be paid therefor.

As for local forwarding agents, their licences serve in the first instance to empower them in controlled emigration areas to forward recruits who have been brought to their depôts in order to be despatched to Assam with assistance, but that whenever the controlled emigration area in which they discharge their duties is

wholly or in part declared to be a restricted recruiting area it enables them in addition to act as recruiters. For this reason their licences, although they are not necessarily recruiting licences, are dealt with here.

Under the Tea Districts Emigrant Labour Act, 1932, persons are licensed to act as local forwarding agents only on the application of an employer or a group or association of employers. No such application is entertained by the authority empowered to grant the licence unless the Controller of Emigrant Labour has certified that the employing interest making the application has made proper provision for the forwarding, accommodation and feeding of assisted emigrants on their journey to the tea estates on which they are to be employed. Moreover, when forwarding an application to the competent authority, the Controller may add any observations relating to matters lying within his knowledge which bear on the fitness or unfitness of any person named in the application to receive a licence. A local forwarding agent may be granted separate licences on applications by separate employing interests. The local Government may make rules prescribing the form and particulars of licences to be granted to local forwarding agents and the annual fees which may be levied from persons holding such licences.

In the *Netherlands Indies*, the recruiting of labour in Java and Madura for employment under penal sanctions in the Outer Provinces is subject to licence. The only condition imposed on employers by the Governor-General's Decree of 4 December 1915 is that sufficient guarantee must exist for the correct performance of the obligations provided by the Employers' Recruiting Ordinance of the same date. A licence may be refused without explanation. Moreover, under the Recruiting Ordinance of 1914, the Governor-General may prohibit the departure from Java of workers under penal sanction for any undertaking where conditions are considered to be unsatisfactory.

It will be remembered that professional recruiting was permitted in the *Netherlands Indies* up to 1930. Recruiting by employers, however, was considered preferable because of the absence of a profit-making element and because it was held that the employers' own interest was to a certain extent a safeguard against the introduction of improper practices likely unfavourably to influence the quality of the recruited labour. In view of this presumed superiority, recruiting by employers was regulated less stringently than professional recruiting and in particular the employer-recruiter was not required to furnish security. On the other hand, the preferential treatment accorded to employers' recruiting led the authorities to regard the issue of an employer's recruiting licence as a favour to be granted only to undertakings providing conditions of work and welfare superior to the minimum conditions laid down by law.

Since the abolition of professional recruiting the two employers' recruiting associations operating in Java (*Eigen Werving*) are under an obligation to furnish labour to non-members as well as to members of the associations. In these circumstances it is not clear to what extent the authorities have been able to continue the practice of only issuing recruiting licences to employers offering more than the legal minimum of labour protection.

In the case of the V.E.D.A., the employers' association which recruits through worker-recruiters, the authorities have been stricter than in the case of *Eigen Werving* organisations. Only undertakings of good reputation are allowed to join the V.E.D.A. for the purpose of obtaining labour.

The appointment by an employer or an employers' association holding a recruiting licence of labour agents is subject to the approval of the Director of Justice. Approval may be refused without explanation and is required to be withheld in the case of any person whose reputation is unsatisfactory. In the licences issued to the *Eigen Werving* organisations in Java, it is provided that the chief of the labour inspectorate may prohibit the licence holders and their representatives from employing any person who may be named by him. Similar provisions are contained in the Decree of the Director of the Batavia Labour Office exempting the V.E.D.A. from a provision of the 1931 Coolie Ordinance. In addition, the Decree provides that the whole staff of the V.E.D.A. shall receive fixed wages, and prohibits the direct or indirect payment of recruiting bonuses or other remuneration proportionate to the number of recruits obtained.

In the *Philippine Islands*, the Act of 5 February 1915 provides that every person who directly or indirectly engages in contracting, enlisting, recruiting or shipping labourers shall obtain a licence to be issued by the Director of the Labour Bureau, and approved by the Secretary of Commerce and Police.

Under the *Portuguese* Native Labour Code of 1928, no person is allowed to recruit Native workers unless he holds a licence issued by the competent authorities. The following exceptions are provided:

- (a) Persons engaging domestic servants in numbers which are in accordance with their social position;
- (b) Persons carrying on agricultural, industrial or commercial undertakings, who do not as a rule employ more than thirty workers;
- (c) Persons who engage for their own service under an oral contract workers who present themselves at the place of employment;
- (d) Travellers who require workers as porters or for any casual services;
- (e) Tenants of prazo estates, in respect of Natives resident on the estates, who are required to perform the duties of cultivation under their contract;
- (f) Administrative authorities in respect of work for the Government or a municipality;
- (g) Directors or managers of public works when the recruiting is effected within the district of the place of employment.

In the cases mentioned under (b) and (c) the exempted persons may engage the workers only at the place of employment, or at any other place in the administrative area to which workers are accustomed to resort in order to offer themselves for employment.

In addition, the persons under (b) may undertake recruiting outside the administrative area of the place of employment provided that they have obtained a declaration in writing through the Curator or his agent testifying their exemption from the obligation to hold a recruiting licence.

The Code declares that all recruiting licences are personal and non-transferable. The holders are not allowed to appoint to use them any persons not authorised as their legal representatives.

The licensing authorities may refuse to grant licences if they have sufficient reasons for doing so in accordance with the provisions of the

law or for reasons of an administrative character. In the latter case, they are not bound to inform the applicant of the reason for their action. In the event of the refusal of a licence, appeal may be made to the Curator or to the Governor of the Colony.

Section 30 of the Native Labour Code mentions various acts prohibited to a licence holder. In addition to those which will be mentioned later under the administrative supervision of recruiting (Chapter VI), a recruiter may not recruit the persons for whom he is not authorised by his licence, or transfer to another person the workers whom he has recruited without their consent and the approval of the authorities; divert Natives in any way from the purpose for which they were recruited; lead Natives or their Native chiefs to believe that he represents the public authority in any way or that he is recruiting by order from the public authority or for any public employment; wear clothes or insignia identical or liable to be confused with military uniform or with the uniform of any civil authority or official; trade with the Natives whom he has recruited; resort to any fraud, threats or violence to compel Natives to enter into contracts of employment; maliciously hinder in the exercise of their calling any other recruiting agents.

§ 4. — Financial or Other Security

Recruiting licences are usually issued subject to the payment of fees and the deposit of security for the good conduct of the licensee.

It is not necessary here to examine the varying rates of fees charged in different territories, since they are no doubt intended to meet to some extent the expenses of administration rather than to serve as a guarantee of the *bona fides* of the recruiter. The security, on the other hand, is essentially a guarantee, while it may also serve to meet or secure any payments which may result from the recruiter's failure to fulfil the obligations imposed on him by the recruiting laws. Most legislations which provide for licensing require that the licensee shall be of a certain financial standing in order to secure that in the event of his bankruptcy or malpractices on his part the loss be borne neither by the Administration nor by the recruited workers.

No attempt will be made in the following summary of law and practice to show where a deposit is required in cash and where a bond entered into by or on behalf of the recruiter is sufficient. In both cases the principle that the recruiter shall furnish financial security is the same. The chief divergencies of principle to be noted are that in certain cases no provision is made for the furnishing of security by employers authorised to recruit for their own services, and that in some territories the furnishing of security is

general and compulsory and in others at the discretion of the competent authorities.

In the *Belgian Congo*, the General Administrative Ordinance of 18 June 1930 provides that the Provincial Governor shall decide whether the issue of recruiting permits shall be subject to the preliminary payment of security, and if so shall fix the amount of such security.

In the *Union of South Africa*, before the issue of any labour agent's or employer's recruiting licence, the applicant is required to furnish security in the sum of £200, which may be used to meet any fine or fees under the law and any wages for which the licensee may become liable to any Native labourer.

A sum of £100 or security for that amount is required in *Basutoland*, *Bechuanaland* and *Swaziland*.

In *Southern Rhodesia*, the deposit of £100 or security for such amount is required in the case of a labour agent engaging Natives for work in Southern Rhodesia, and £250 for a special licence to engage Native labourers for work outside Southern Rhodesia.

In *Northern Rhodesia* and the *Mandated Territory of Tanganyika*, the authorities may require an applicant for a labour agent's licence to deposit or furnish security for £100. In *Kenya*, *Nyasaland* and *Uganda*, the authorities may also require security, the amount of which is not specified in the laws.

In the *Mandated Territory of New Guinea* and in *Papua*, the issue of a recruiter's licence is subject to the furnishing of security in the sum of £50. In *Fiji*, the *British Solomon Islands Protectorate*, and the *Gilbert and Ellice Islands*, security may be demanded of the employer. The Solomons Labour Regulation, for example, provides that before granting a permit the district officer shall, when he deems it necessary, require security for the payment of the wages of the labourers and of the expenses of maintaining them and of returning them home upon the termination of their service. In the *New Hebrides*, any British subject recruiting Native labourers for employment with persons other than himself is required to deposit the sum of £80.

It may also be noted that where recruiting for service abroad is alone regulated, it is usual to provide that security may be required from the employer or his agent (see Chapter VII).

In the *Netherlands Indies*, regulated recruiting (i.e. in Java and Madura, for employment under penal sanctions in the Outer Provinces) is only permitted to employers, employers' associations and worker-recruiters commissioned by their employers. The deposit of financial security is not required in these cases.

Under the *Portuguese Native Labour Code* of 1928, security to the following amounts is required for the various forms of licences: for recruiting for the recruiter's own service, 500 escudos; for agents of companies recruiting for employment within the Colony, 2,000 escudos; for general agents recruiting for employment within the Colony, 5,000 escudos; for agents of companies or other bodies authorised to recruit workers for employment outside the Colony, 5,000 escudos; for assistant recruiting agents or private recruiting agents, 500 escudos.

§ 5. — Renewal and Withdrawal of Licences

Where the periodicity of licences is fixed, either the period is one year or licences automatically expire at the end of the calendar year. In some cases where the licences specify the number of labourers recruited, it is also provided that the licences shall be withdrawn as soon as the number mentioned in the licence is reached.

The licensing system also implies the possibility of withdrawing the licence in the event of misconduct by the licensee. This is often expressly stated. It may be noted, however, that whereas not infrequently a licence may be refused without reason given, the withdrawal or suspension of a licence already granted is more usually made dependent on an established breach of the law and may be subject to appeal to a higher than the normal licensing authority.

In the dependencies of *Great Britain* and of the *Dominions*, the normal periodicity for recruiting licences is in most cases twelve months. In the *Union of South Africa*, *Basutoland*, *Bechuanaland*, *Swaziland*, *Northern* and *Southern Rhodesia*, licences expire on 31 December of the year of issue. In *Kenya*, *Uganda*, the *Mandated Territory of Tanganyika*, *Papua*, *Fiji*, the *British Solomon Islands*, the *Gilbert and Ellice Islands*, and the *New Hebrides* (British subjects) licences are issued for twelve months or a period not exceeding twelve months.

The *Fijian Labour Ordinance* also provides that the licences for the hiring and engagement of *Fijian* labour shall state the maximum number of labourers to be engaged. The magistrate keeps a record on the licence of the numbers actually engaged at any one time, and when the maximum number has been recruited the licence is returned to the authorities. The same rule applies in the *British Solomon Islands*, the *Gilbert and Ellice Islands* and the *New Hebrides* (British subjects).

In the *Union of South Africa*, although the Director of Native Labour has full discretion as to the issue or refusal of a licence on first application or on application for renewal, only the Minister may cancel a licence once issued. The Native Labour Regulation Act provides that if the holder of any licence is convicted of any crime or offence or any contravention of the Act or Regulations, the conviction shall be brought to the notice of the Minister, who may direct the cancellation of the licence. Pending the Minister's decision, the licence may be suspended by the convicting magistrate. It is also provided that if the holder of a licence is reported guilty of such misconduct as to render him unfit to hold his licence, the Director of Native Labour shall notify the magistrate, who, after enquiry, may suspend the licence pending the decision of the Minister.

In *Swaziland* and *Southern Rhodesia*, the position with regard to the withdrawal of licences is similar, subject to differences due to the different administrative machinery.

In *Basutoland*, licences may be withdrawn by the central authority, notably if the licensee has been guilty of any misconduct which, in the

opinion of the Resident Commissioner, renders it undesirable that he should be allowed to continue to carry on the calling of a labour agent. Similar provisions exist in *Bechuanaland* and *Northern Rhodesia*.

In the *Mandated Territory of Tanganyika, Kenya and Uganda*, the licence of any labour agent who contravenes its conditions or commits a breach of the provisions of the law may be cancelled. In *Kenya* and *Uganda*, action is taken by the Governor, and in *Tanganyika* by the Provincial Commissioner, subject to appeal to the Governor.

In the *British Solomon Islands Protectorate*, the Resident Commissioner may at any time, if he thinks fit, suspend or cancel any licence or permit. In *Fiji*, provisions for the suspension or cancellation of licences exist in the event of any breach or evasion of the Labour Ordinances or of any impropriety by the licensee in connection with recruiting. In the *Gilbert and Ellice Islands*, the Resident Commissioner may for any reasonable cause cancel any permit granted, reporting his action to the High Commissioner. In the *New Hebrides*, the Resident Commissioner has full discretion to revoke or suspend recruiting licences granted to British subjects, while the actual licence specifies that it is liable to be revoked or suspended in the event of the breach by the licensee of any of the specified conditions or of any of the provisions of the Labour Regulation.

In the *Mandated Territory of New Guinea*, under Australian administration, the Administrator may suspend or revoke a licence on any grounds that appear to him to be sufficient, and especially if the holder has been convicted of a criminal offence, of any breach of the Native Labour Ordinance, of delivering arms, ammunition or alcoholic drinks to Natives, or of violence against Natives. In *Papua*, any licence may be suspended by a magistrate or revoked by the Lieutenant-Governor after due enquiry.

Licences may also be suspended on general grounds. In *Fiji*, it is provided that any permit or licence to engage Fijian labour shall be deemed to be cancelled or suspended in any district in which the Governor, with a view to the welfare of the Native inhabitants, has prohibited the engagement of labourers. The practical effect is the same where the Administration is empowered to prohibit all recruiting, as is provided for in *Northern Rhodesia, Kenya, Uganda, the British Solomon Islands, the Gilbert and Ellice Islands* and the *New Hebrides* (British subjects).

In *India*, the Tea Districts Emigrant Labour Act, 1932, and the Rules made thereunder by the Indian Government do not show whether local Governments grant licences to local forwarding agents and recruiters for a fixed period only. Rule 8 of the said Rules, however, would seem to contain an indication that licences for local forwarding agents should be granted for a fixed period. Recruiting licences, which are only needed in restricted recruiting areas, may be cancelled or suspended by the district magistrate on the ground of the recruiter's misconduct or wilful neglect or default in the discharge of the duties imposed on him by or under the Tea Districts Emigrant Labour Act. As for licences granted to local forwarding agents, if the Government of India is satisfied that an employing interest recruiting assisted emigrants in a controlled emigration area is not making proper provision for the forwarding, accommodation or feeding of such emigrants and their families on their journey to Assam, it may require the local Government having jurisdiction over that area to direct all district magistrates concerned to cancel or suspend all licences held by local forwarding agents on behalf of such

employing interest. Likewise, the local Government or a district magistrate may cancel wholly or in part any licence granted to a local forwarding agent, if an employer on whose behalf the agent is licensed to act has been guilty of misconduct or wilful default or negligence in the discharge of the duties imposed on him by or under the Act. On the other hand, such misconduct, default or negligence on the part of the agent may equally lead to the cancellation of his licence by the local Government or the district magistrate. Finally, the licence may also be cancelled wholly or in part at the request of the employing interest on whose application it was granted.

In the *Netherlands Indies*, the law provides that employers' recruiting licences may be granted for a fixed period or until cancellation. In the latter case they may be withdrawn by reason of the failure of the licensee or his representative to respect the legislative or administrative provisions concerning recruiting or the special conditions of the licence. In the event of such withdrawal, the authorities are required to give the grounds for their action. In addition, the Director of Justice may without explanation withdraw his approval of the appointment of any person as the authorised agent of an employer or employers' association holding a recruiting licence.

The *Portuguese Native Labour Code* of 1928 provides that recruiting licences shall be valid for one year. The authorities may order the cancellation of licences if they have sufficient reasons for doing so, in conformity with the provisions of the law or for reasons of an administrative character to which they consider it necessary to pay attention, provided that in the latter case they shall not be bound to inform the licensees of the reasons for their action. In the event, however, of licences to recruit for the recruiter's own service, the cancellation of a licence may only be ordered after enquiry and substantiated by reasons given. An appeal may be made to the Curator and from him to the Governor in the case of such cancellation. The Code also provides that for reasons of public order or in any other case of emergency the Governor of the Colony may order the temporary suspension of all recruiting licences, and that the taking of such measures shall not give licensees the right to any compensation.

§ 6. — Recruiters' General Obligations

Having obtained a licence withdrawable in case of misconduct, and having furnished a guarantee of his ability to fulfil his financial obligations, the recruiter may be required also to record his recruiting operations in forms open to the inspection of the authorities.

Regulations issued under the *South African Native Labour Regulation Act* provide that every labour agent shall furnish to the inspecting officer all such returns as may be required from time to time, and further that every labour agent shall, when required by the Director of Native Labour, furnish particulars of all requests for Natives and of all Natives actually recruited during any period to be specified.

In *Basutoland*, every labour agent is required within fourteen days from the expiration of each calendar month to furnish the Resident

Commissioner with a return in respect of such month showing the names and residences of all Native labourers procured or supplied by him, the names of their employers or their employers' agents, and the terms of contract and conditions of employment.

In *Southern Rhodesia*, as in the Union, every labour agent is required to furnish all such returns as may be required from time to time. Similar provisions exist in Northern Rhodesia.

In the *Netherlands Indies*, the regulations concerning recruiting and the licences granted to *Eigen Werving* organisations and to the V.E.D.A. require the licensees to keep in a prescribed form certain registers and records showing when the recruits are received in the recruiting depôts, the results of their interrogation by the competent officer, their embarkation for the Outer Provinces or repatriation, etc. These records are open to the inspection of the competent authorities. In addition, the authorities may require any supplementary information and have free access to all buildings or places used for the housing of recruits.

Such records help the authorities in controlling the movements of Natives, in protecting the worker on his way to employment, in tracing his relatives in the event of his death, and in safeguarding the employer from fraud, particularly from the substitutions sometimes practised by unscrupulous Natives. It may be said that they form the necessary proof of the fulfilment by the recruiter of his obligations towards both worker and employer.

The responsibility thus assumed by the recruiter lasts up to the time the worker enters employment, or, if he fails to do so, for instance by reason of ill health, till his return to his village of origin. In certain laws this responsibility is specifically stated, and in others provided for under conditions relating to the journey and repatriation of recruited workers, as is shown in Chapter VI, which mentions the cases where the ship used in recruiting operations is required to be licensed, as well as the recruiter personally.

§ 7. — Recommendations of the Committee of Experts on Native Labour

The following principles adopted by the Committee of Experts on Native Labour, taken in conjunction with the principles given at the end of the last Chapter, complete the Committee's recommendations in regard to the regulation of the agencies of recruiting:

D. — RECRUITING LICENCES

(1) Licensing conditions. — *The conditions under which recruiting licences may be issued should be prescribed by law or regulations and should include the following requirements:*

- (a) *that the licensee, if an individual, is a fit and proper person, who in particular is unlikely to use abusive methods in inducing*

- prospective workers to accept employment, and whose strict compliance with the regulations concerning recruiting may be presumed;*
- (b) *that every licensee should deposit with the competent authorities financial or other security for his proper conduct as a licensee;*
 - (c) *that every licensee should keep records of all recruiting operations in such form as the competent authorities may prescribe: these records, which should be held at the disposal of the competent authorities, should be such that the regularity of every operation of recruiting can be ascertained and every recruited worker identified, more particularly by the record of his place of origin;*
 - (d) *that the licensee, if he is the agent of another licensee, should receive a fixed salary in preference to a remuneration calculated at a rate per head of workers recruited;*
 - (e) *that all necessary arrangements have been made for safeguarding the health and welfare of the recruited workers from the time of recruiting onwards.*

(2) *Renewal and withdrawal of licences. — Licences should be granted for a fixed period, and their renewal should be conditional upon the conformity of the holders during that period with the conditions under which the licences were granted.*

Licences should be withdrawable where the licensee is found guilty of any offence or misconduct unfitting him to conduct recruiting operations; the competent authorities should have the power to suspend any licence pending the result of any enquiry into the conduct of the licensee.

CHAPTER VI

THE PROTECTION OF RECRUITED WORKERS

In addition to laying down rules for establishing where, by whom, and under what conditions, recruiting operations may be carried on, recruiting legislation usually provides that at a given stage in the process of obtaining labour a public officer shall check the regularity of each and every act of recruiting, and imposes certain obligations as regards the treatment of the recruited worker till the time he enters employment.

The action of the State to these ends is not only necessary for the protection of the workers, but is also of great value to employers in that it tends to increase the efficiency of the recruiting operations and to guarantee a certain standard in the quality of the labour received. It will indeed be found, in particular in regard to the medical protection of recruited workers, that not infrequently the requirements of the law are outstripped by employers' practice.

§ 1. — Administrative Supervision

Almost universally it will be found that at some stage between his village and the place of employment the recruited worker is required to be brought before a public officer so that the latter may verify that the law has been observed and that the worker has not been subjected to improper influences. This procedure is in some cases a direct obligation on the recruiter, resulting from a precise stipulation in the law that all recruited workers shall thus be subject to administrative supervision. Elsewhere it may be required in virtue of an obligation for all agreements of a certain character to be officially supervised and in view of the fact that labour is recruited only for service under such agreements.

Witnesses of actual administrative supervision of this kind have sometimes commented on the summary nature of the proceedings. But while it no doubt happens that a busy administrative officer may regard his attesting duties as routine work to be finished as quickly as possible, the administrative supervision of recruiting cannot be dismissed as mere legal mummery. The officer generally knows which recruiter he may trust and which requires careful supervision. The recruits may be proceeding to an employment with which they are already familiar and therefore need only the briefest reminder of its conditions. An opportunity is in any case given of checking gross abuses and keeping before the recruiter a sense of his obligations. The conditions under which the workers are recruited can be established beyond possibility of dispute, and any conditions not normal to the district will be bound to receive the scrutiny of the public officer.

This being the purpose of this form of administrative supervision, it is clearly of most value when it is effected as near as possible, in time and distance, to the actual agreement reached between recruiter and worker. A Native who has been taken a comparatively long distance from his home has already in practice forfeited a great deal of his freedom of choice. If courageous and grossly deceived, he may still be able to protest to the first public officer before whom he is brought. More usually, the lapse of time, the strangeness of his surroundings, and a feeling of fatality will keep him silent. It will thus be seen in the following summary of law and practice that generally it is provided that recruited workers must be brought before a public officer as near as possible to their village of origin.

It may, however, be that the great distances to be covered, the large areas under the administration of a single officer, render a precise obligation of this nature impracticable, or that, although the manner in which the actual recruiting operation has been carried out may be verified close at hand, the recruiter, acting as the agent of more than one employer, is unable at the time to supply, in the case of each individual worker, the name of the employer, the place of employment and other details which should be verified or attested by the public officer. To meet such an eventuality, it has been found convenient to provide that the recruiter shall supply the recruit with a document containing a promise of employment and detailing the general conditions of such employment.

This is notably the case in the *Belgian Congo*, where section 4 of the Ordinance of 18 June 1930 provides that before forwarding recruits to the place of employment, the recruiter shall bring them before the territorial authority of their place of origin. This authority, after satisfying himself of the accuracy of the papers provided to the recruits, shall verify their identity, proceed to any prescribed formalities for recording changes in the population, and deliver them a pass. The papers to which reference is here made constitute a special contract between recruiter and worker, which may be called a provisional contract or memorandum of information in regard to their employment (*contrat d'embauchage*).

The law presumes, unless the recruiter furnishes proof to the contrary, that he has undertaken to obtain for the recruit an engagement of at least six months with, in addition to food, housing and medical attendance, wages equal to those usually paid in the place of destination to workers of the same age and capacity as the recruit. A further object of the law is to enable the recruit easily to prove the obligations assumed by the recruiter. To this end the recruiter, on pain of criminal penalty, is required to furnish the recruit, on the day the latter agrees to go with him, a paper indicating the place and date of recruiting, the destination of the recruit, and the conditions of engagement promised. The paper is dated and signed by the recruiter, and may not be withdrawn even after the recruited worker has entered his engagement.

It is to be noted that the *contrat d'embauchage* does not impose any obligation on the worker. He is entitled, even after having set out, to change his mind and to require the recruiter to repatriate him, his sole obligation in such cases being to return the bedding supplied him. Should, however, the recruited worker on arrival at his destination fraudulently fail to accept employment at the wage and for the period promised by the recruiter, the recruiter is released from his obligations, including that of repatriation.

The "*contrat d'embauchage*" system is also to be found in the *Spanish possessions of the Gulf of Guinea*. In accordance with section 40 of the 1906 Regulations, Natives officially recruited in the Bata and Elobey districts for employment in Fernando Po are supplied by the Curator's representative with a memorandum indicating that they desire to undertake contract employment in Fernando Po and specifying the period of the contract, wages, recruiting expenses, any advances made and rations supplied. On arrival at Santa Isabel, recruits are conducted by the police to the official of the "*Curadoria*" who exchanges their memoranda for work-books. Administrative supervision of engagement in the Spanish territories is also prescribed in the case of the "*Bubis*" people of Fernando Po, where lists of workers wishing to engage are drawn up by the local officers. In the case of workers recruited on the African continent by employers or their agents, the local curator supplies the worker with a work-book and draws up the contract in three copies, one of which is retained, one sent to the curator in Santa Isabel, and the third handed to the employer or his agent.

In territories administered by *Great Britain* and by the *Dominions*, the provisions for supervision of the act of recruiting either take the form of a direct obligation that recruited labour shall be brought before a public officer, or in practice result from the dual

obligation for the contracts for which in fact workers are recruited to be in writing and for all written contracts to be attested by a public officer.

In the *Union of South Africa*, every labour agent is required to enter into a written contract with Natives recruited by him, and every such contract must be attested by a magistrate of the province in which the Natives have been recruited or by another person appointed for this purpose. The provisions in *Basutoland* are similar. In *Bechuanaland* and *Swaziland*, every labour agent is required, before any recruited Native leaves the territory, to enter into a written contract, which is attested before the competent authority. In *Southern Rhodesia*, labour agents and employers recruiting Natives under an employer's recruiting licence are required to enter into written attested contracts. In *Northern Rhodesia*, every person engaging Natives for employment without the territory, and every labour agent obtaining Natives for employment within or without the territory, is under a similar obligation.

It will be seen that in these territories, although the obligations of labour agents are similar, an employer recruiting labour for his own service is specifically required to have the labourer attested only in *Southern Rhodesia*. In the *Union of South Africa*, according to the terms of the Native Labour Regulation Act, the holder of an employer's recruiting licence is under no such obligation. Regulations issued under the Act, however, suggest that the obligation exists, while the Act itself, as interpreted by the Courts, only enables a Native labourer to be prosecuted for failing to enter upon the terms of his contract if the contract has been attested. In *Basutoland*, the definition of labour agent covers employers recruiting for their own services unless employing less than twenty Natives. In *Bechuanaland* and *Swaziland*, by the definition of labour agent or of recruiting, the obtaining of labour by employers for service abroad is also covered. Lastly, in *Northern Rhodesia*, contracts for more than one month are required to be in writing and all written contracts to be attested. It therefore appears that in spite of differences in the primary legal obligations, the vast majority of recruited labour is subject to compulsory administrative control in these territories.

In the *Mandated Territory of South-West Africa*, every employer of a Native labourer employed on mines or works is required to enter into a written contract with the Native and to have the contract attested by a public officer.

In *Kenya*, every employer of a labour agent is required to authorise the labour agent to enter into agreements with the Natives recruited by him and to have the agreements attested before a magistrate. Secondly, contracts for more than one month are required to be in writing and no written contract may be enforced against any servant who is unable to read unless it has been attested. This second provision is also to be found in *British Somaliland*, the *Mandated Territory of Tanganyika*, *Uganda* and *Zanzibar*. In *Uganda*, it is also provided that it shall be unlawful for a labour agent to take any recruited native out of the district of recruiting until a written contract has been entered into.

In the *Gold Coast* and *Nigeria*, no written contract may be enforced against any party who is unable to read and understand the language in which the contract is written, unless it has been attested before a public officer. Unwritten contracts for six months are valid, there being no penal sanctions. In the *Seychelles*, contracts for more than a month

are required to be in writing and attested, and the verbal contracts for the outlying islands which are valid for twelve months must be concluded in the presence of a public officer.

In *British Guiana*, contracts of employment with aboriginal natives must be entered into before and attested by the Protector of Indians or other public officer.

In the *Mandated Territory of New Guinea*, administered by Australia, the recruiter is required to present the Native to the district officer for the purposes of attestation before the recruited Native begins work. In *Papua*, a recruited Native must be taken without unnecessary delay before the qualified officer nearest to the home of such Native or nearest from the home of the Native near the route usually travelled towards the Native's destination. In the *Mandated Territory of Nauru*, every contract between an employer and a Chinese or Native worker must be made in the presence of and subject to the approval of the administrator.

In the *British Solomon Islands Protectorate*, where all Natives in the absence of any agreement to the contrary are deemed to be under contract to their employers, all contracts are required to be executed in the presence of the district officer of the Native's home district or the district of recruiting. In the *Gilbert and Ellice Islands*, every contract for more than one month must be ratified by the Resident Commissioner or an inspector. In the *New Hebrides*, no British subject may recruit or employ any Native unless a written contract has been entered into and witnessed by two non-Native persons. This contract is forwarded to the Resident Commissioner and is regarded as provisional until he has approved it.

As is mentioned in the next chapter, the attestation of labour recruited for service abroad is usual. Provisions exist, apart from the territories mentioned in the present chapter, in the *Bahamas, Barbados, British Honduras, Gambia, Grenada, Leeward Islands, St. Helena, St. Lucia, St. Vincent, Sierra Leone and Trinidad*.

As regards the duties to be performed by the public officer, it is usually stated in the laws that he shall satisfy himself that the conditions of employment are understood and accepted by the Native.

In the *Union of South Africa*, the law requires that no contract shall be attested unless the officer is satisfied that the terms and conditions thereof are fully understood and accepted by the Native concerned. The phrase "fully understood and accepted" is also to be found in *Basutoland, Swaziland and Southern Rhodesia*, while in *Bechuanaland* the prescribed duty of the attesting officer is to see that the terms of the contract have been fully understood.

In the *Mandated Territory of South-West Africa*, it is the duty of every attesting officer to cause the contract to be read aloud, interpreted and fully explained to the Native in his presence and in that of the employer or his agent. No contract may be attested unless consented to by the Native labourer.

In *Northern Rhodesia*, the proper officer, if satisfied that the Native does not understand and accept the terms and conditions of the contract, may refuse his approval. A regulation under the *Employment of Natives Ordinance* also provides that the officer may refuse to approve any contract if he considers that the wages are inadequate or that the contract is in other respects inequitable.

In the *Mandated Territory of Tanganyika*, the officer is required to read over and explain the contract to the servant, to point out that he

is liable to criminal prosecution for breach of contract and to certify that the servant voluntarily assented to the contract with full understanding of its meaning. The same provision exists in *Zanzibar*.

In *Kenya, Uganda, British Somaliland, the Gold Coast and Nigeria*, the officer is required to certify that the contract was read over and explained to the worker and was entered into voluntarily and with full understanding of its meaning.

In the *Mandated Territory of Nauru*, the officer must satisfy himself that the labourer understands the nature and the terms of the contract and is responsible that these terms are fair and reasonable. In the *Mandated Territory of New Guinea*, the officer must be satisfied that the agreement between the recruiter and Native is valid and equitable. In *Papua*, the engagement of a Native may not be sanctioned until the officer has satisfied himself that fair remuneration is offered and will be paid, that the Native is willing to enter into the contract, that there is no reason to suspect he will be unfairly treated, or that he will not be returned home at the expiration of the contract.

In the *Mandated Territory of Western Samoa*, administered by New Zealand, Chinese labour is imported by the administration and the contract is individually explained by a responsible officer of the Hong Kong Administration.

In the *British Solomon Islands Protectorate*, the officer may not ratify a contract unless he is satisfied that the Native is eligible, that he understands the nature and terms of the contract, that he is a willing party thereto and that the terms are not manifestly unfair. Similarly, in the *Gilbert and Ellice Islands*, the officer must be satisfied that the labourer understands the contract. If he is of opinion that the terms are manifestly unfair, he is required to refuse to ratify the contract and to report the reason to the Resident Commissioner who may, if he think proper, direct the contract to be ratified. In the *New Hebrides*, the Resident Commissioner may disallow any provisional contract for any reason which he holds good, and is required to disallow any such contract when it appears to him on enquiry that the Native did not freely consent to the engagement or did not clearly understand its terms.

In the *French dependencies*, the administrative control of the act of recruiting is also secured, either by provisions directly governing recruiting or movements of labour or by provisions regulating contract employment.

In the *Cameroons under French Mandate*, the recruited worker before leaving his administrative unit is required to obtain a pass bearing his name, village and headman, the reason for his removal from the district, and the approximate length of his absence. In addition, his contract of employment must be countersigned by a public officer.

In *French Equatorial Africa*, by section 5 of the Decree of 4 May 1922, the administrative authority is stated to be a party to all labour contracts as guardian of the Natives. "In particular, it shall ascertain whether the worker is entering into the engagement of his own free will. . . . Further, the labour contract shall be drawn up under its control and entered according to its date in a register which the authority shall keep in its possession. The essential provisions of the contract shall be copied into a work book issued to each person concerned."

In *Togoland under French Mandate*, work books for each recruit are supplied to the recruit by the office of the place of recruiting. The

officer is responsible for reading aloud and translating the contracts to the two parties by whom they are signed. Finally, the contract is recorded in a special register kept at every administrative office and visaed by the sub-divisional or district officer.

In *French West Africa*, the law contained in the Decree of 22 October 1925 and the regulations issued thereunder provide a full measure of administrative control only in the case of engagements constituting contracts of employment in terms of the law. The head of the administrative area, before ratifying the contract, is required to ascertain the identity of the contracting party and the fact that he enters into the contract of his own free will. He reads the contract aloud and, whenever possible, has it translated to the parties. The identity of the contracting party is further established by the work book which every worker is required to possess, not only if engaged under contract, but whatever his employment. At the request of either party, any contract may be submitted to the administrative authority for ratification.

In *Madagascar*, the attestation and registration of contracts is compulsory when recruiting is effected with the assistance of the regional employment office or a public officer, and when the engagement is for more than three months. The contract is attested and registered by the regional employment office, where such exists, and otherwise by the head of the district. Before attesting the contract, the officer is required to read the contract to the parties in French and in Malagasy and ascertain that the person engaged gives his free consent. The employer has the right to be represented by a duly authorised European or Native approved by the regional employment office at the attestation of the signatures of the parties and if any of the parties is illiterate this fact is likewise noted. Work books are issued to the employer and to the worker and a third is kept by the regional employment office.

In *Indo-China*, the contract of employment is concluded by the employer or his representative before a public officer, who is required to satisfy himself that the worker is perfectly acquainted with the terms of the contract. The public officer certifies the contract after seeing that it is in conformity with the regulations in force.

In *India*, the only legislative provisions imposing special control over recruitment for inland employment are those contained in the Tea Districts Emigrant Labour Act, 1932, relating to recruitment for the tea gardens in Assam. Under this Act both recruiting and forwarding are free in principle, but the local Government of a recruiting province is empowered to declare any area within such province to be a controlled emigration area. This implies that all persons in that area with whom an arrangement is made in view of their being despatched to Assam with assistance can no longer be forwarded freely to that Province but have to be taken with the members of their family who are to accompany them to the dépôt of a local forwarding agent licensed for that area. From such dépôt the forwarding has to be performed by prescribed routes and in the prescribed manner. The same applies to persons in an Indian State who are to proceed to Assam with assistance and who are brought into a controlled emigration area. Moreover, the local Government of a recruiting province may declare any controlled emigration area or any part thereof within such province to be a restricted recruiting area. This implies that in such area no actual recruiting can be carried on except by certificated garden sardars, licensed recruiters and licensed local forwarding agents.

The administrative supervision for which, in regard to controlled

emigration areas and restricted recruiting areas, provision is made by the Act itself and by the Rules made thereunder by the Government of India, does not include the presentation of the recruits to a public officer. It would not seem impossible, however, for local Governments to make rules to that effect¹. The control provided for by the Act is of a more general character and consists in the inspection of local forwarding agents' depôts, depôts maintained by employers on prescribed routes to Assam and means of communication by which assisted emigrants are travelling or are presumed to be travelling to Assam, as well as in the checking of registers and documents maintained or kept in accordance with the Act or the Rules made thereunder.

It is the duty of local forwarding agents and persons in charge of a depôt to bring to the notice of the Controller of Emigrant Labour and other competent authorities all cases in which they have reason to believe that a person who has been brought to them and who is proceeding to a tea estate with assistance has been recruited by coercion, undue influence, fraud or misrepresentation or has been recruited or forwarded otherwise than in accordance with the provisions of the Act and the Rules made thereunder. Any person improperly recruited or forwarded may, if he so desires, be returned with this family to his home at the cost of the employer on whose behalf he was recruited. Moreover, any person brought to Assam as an assisted emigrant may before the expiry of one year from his entry into that Province apply to the Controller to be repatriated with his family at the employer's expense on the ground that he was recruited improperly. In this connection it is worth mentioning that in the opinion of the Royal Commission of Labour in India, the stage after the emigrants' arrival on the plantation is the most important one from the point of view of recruiting since irregularities generally come to light after the emigrant has left the recruiting area.

Under the Tea Districts Emigrant Labour Act, 1932, local Governments are empowered to make, with regard to controlled emigration areas, rules prescribing the information which shall be supplied by local forwarding agents to assisted emigrants regarding the conditions of life and work on tea estates in Assam and the methods in which the information shall be supplied.

The only provision in *Italian* colonial legislation that appears relevant to the question of administrative supervision of recruiting is contained in the Decree of the Governor of *Eritrea* of 1 September 1916. This Decree provides that where labour is engaged for a period of at least one month, except for domestic service, the employer must enter certain information (including the date of commencement, duration and nature of the employment, wages and method of payment) in the Native's work-book, in the presence of an Italian civil or military authority.

The *Netherlands Indies* law and practice on this question, which concerns solely the recruiting of labour in Java and Madura for employment under penal sanctions in the Outer Provinces, are of particular interest since, according to the form of recruiting, the possibility exists either of the refusal of the contract by the worker or of the cancellation of the contract after the worker has arrived at his employment even though administrative control has been effected earlier in the process of recruiting.

Leaving aside for the moment recruiting by workers, the law in the

¹ India Legislative Assembly Debates 1932, Vol. V, No. 4, page 1292.

Netherlands Indies provides for a double control by the authorities of the regularity of each recruiting operation. Whereas, however, in the case of professional recruiting, the recruits were first brought before a public officer in the interior of Java not far from the place of recruiting, for workers recruited by the *Eigen Werving* organisations the first examination is deferred to the port of embarkation in Java¹. This was another privilege granted to these associations on the ground that employers' recruiting offers higher guarantees than professional recruiting.

At the port of embarkation recruits are also required, after a minimum delay which is fixed by the chief of the labour inspectorate, to be brought before a public officer for the conclusion of their engagements, so that within a few days the authorities have on two occasions the opportunity of satisfying themselves of the regularity of the recruiting operations. It appears that, as regards recruiting, the first examination is of chief importance, the second being concerned in particular with the final inspection of the workers' papers and a second explanation of the nature of the obligations they are assuming. The workers are interrogated in the absence of all persons directly or indirectly concerned with the recruiting operations. The examining officer may also question any relatives of the recruit who may be in the recruiting dépôt.

The exemption granted to the *Eigen Werving* organisations from the obligation to bring the recruits before a public officer in the interior of the country undoubtedly involves a certain weakening of the system of administrative supervision. For this reason the authorities, while considering such exemption justified by the superiority of employers' recruiting, have imposed on the employers concerned certain conditions so as to make sure that any irregularities which may have escaped notice in Java can be remedied when the recruited workers have reached the Outer Provinces. To this end, the licences granted to the associations provide that should a worker, after arriving at his employment, demand the cancellation of his contract and his demand is justified on certain grounds fixed by the chief of the labour inspectorate, the employer is required to agree to provide at his own expense for the repatriation of the worker. Such a step may, for example, be taken if it appears that a worker has been deceived into the contract accepted by him. Furthermore, the authorities within Java are not left uninformed of the recruiting operations taking place in their district. The recruiters are required to communicate to them, within a certain time after the arrival of the recruits at the port of embarkation, a detailed statement of the persons recruited in their districts.

In the case of the V.E.D.A., the employers' association which recruits through worker-recruiters, administrative control in Java has been replaced almost entirely by guarantees of a special nature. As has already been mentioned, the workers who thus recruit labour and the staff of the association are not allowed to receive remuneration in proportion to the number of recruits obtained, while their work is supervised by representatives of the association. In addition, the V.E.D.A. is required for each recruit to produce a certificate from the village headman stating that the recruit belongs to the village, that he

¹ Normally Batavia, Semarang and Sourabaya are the ports of embarkation. On 15 January 1931, however, the appointment of Sourabaya as embarkation port was cancelled in view of the decrease in recruiting resulting from the depression.

is not the subject of any police enquiry, and that his parents or other connections agree to his departure for the Outer Provinces. The chief guarantee, however, is that the workers recruited by the V.E.D.A. are allowed to contract only after having spent at least ten days in the undertaking for which they have been recruited. They are thus able to learn the conditions of life and labour in their new surroundings. If, as a result of their impressions, they refuse to accept the employment, the employer is required to repatriate them and their family at his own expense. Should they agree to accept the employment, the contract is approved by the competent officer of the Outer Provinces who for this purpose periodically visits the undertaking or summons the recruits to a given spot. In Java itself the workers recruited by the V.E.D.A. only come before an officer immediately before leaving the island. The sole duty this officer has to perform is to explain to them the nature of the contract they will be invited to accept in the Outer Provinces, and to inform them that they will be entitled to repatriation at the employers' expense if they finally refuse the employment.

The above provisions cover all workers recruited in Java and Madura for employment under penal sanctions in the Outer Provinces. In the case of workers engaged under penal sanctions in the Outer Provinces, the law provides that the contracts shall be concluded before an officer of the labour inspectorate or the local administrative officer, who is required to refuse to attest the contract if he suspects coercion has been practised or that the worker is engaging under a misapprehension or as the result of misrepresentation.

Under the *Portuguese Native Labour Code* of 1928, provision is made for the supply to every adult male Native of a work book serving as an identity card and record of employment. Whenever a Native accepts employment under a contract of service, he is identified through this book and the necessary entries are made in the book by a public officer.

Contracts according to the *Native Labour Code* are of two kinds: those drawn up with, and those drawn up without, the co-operation of the authorities. Contracts may not be entered into without the co-operation of the authorities, except when the workers' place of residence is in the district where the work is to be performed, or unless the worker, though usually resident elsewhere, appears spontaneously at the undertaking without any previous recruiting operations and establishes that he is free to enter into a contract of employment. In case of exceptional and urgent work, the Colonial Governor may grant certain employers permission to recruit a specified number of workers for a period not exceeding three months from neighbouring districts, without requiring that the contracts shall be entered into with the co-operation of the authorities.

Written contracts concluded without the co-operation of the authorities must nevertheless be communicated to the authorities and ratified by them. Oral contracts for work to be done by the week or month are also communicated to and ratified by the authorities. Oral contracts for the working day are exempt from this requirement, except that if an employer usually employs more than ten workers in such circumstances, he communicates a list of his workers monthly.

Contracts drawn up with the co-operation of the authorities, which appear to include most of those which would result from typical recruiting operations, are concluded in the presence of the Curator or his agent and countersigned by him, after he has ascertained that the contracting parties mutually and without any coercion accede to each and all of

the clauses of the contract and that none of the clauses is contrary to the provisions of the Code.

The Code also provides that the Curator and his agents shall be entitled to disallow contracts involving their co-operation or to refuse to ratify those made without their co-operation in all cases where the conditions under which it is proposed to carry out the contracts are in conflict with the provisions of the law, or contrary to the principles of justice and morality. A further provision is that no holder of a recruiting licence may take recruited Natives to the place of employment, without having previously brought them before the competent authority that it may co-operate in the drawing up of the contracts if the Natives in question are to be employed outside the area where they were recruited.

§ 2. — Medical Examination

The antecedents and consequences of recruiting necessitate a measure of medical control more general and possibly more stringent than is required for even unhealthy employment in more advanced countries. The lower health standards of the population, the probability that the worker will be obtained most easily where the pressure of food shortage has already weakened physical resistance, the often arduous journeys to be covered by the recruit, the change of living conditions and work occasioned by the new employment, all render careful medical supervision essential. Moreover, it is in the interests of the employer, worker and community alike that the recruit who is below a certain standard of physical fitness shall be eliminated as early as possible.

The question arises whether the necessary medical examination should be an obligation imposed by the State or whether it is sufficient to leave the question to the employers' realisation of their own interests. It has even been maintained that compulsory medical examination, if the right to accept employment is decided by its results, may be unjust, as a Native who is slightly under the accepted standard may thereby be confined to his village for life.

Such an argument, however, seems specious when it is realised that the best employers' practice is in excess of the requirements of the law, and leads to the same result. A number of Congo and of South African Natives are undoubtedly prevented from accepting mining employment by the comparatively high standard of physical fitness demanded by employers. The situation is preferable to the possible alternative of a high death rate in employment, one result of which may be that even able-bodied Natives may be reluctant to come forward for employment. Until the general

raising of living conditions and the extension of medical services to the general population have appreciably raised the average physique and disease-resisting powers of the peoples, by which time the artificial stimulation of the labour supply though recruiting may probably no longer be needed, it would seem that close medical control is essential.

Thus, once again, a detail in the regulation of recruiting is necessary so long as general conditions necessitate a close control over the operations by which labour is obtained. Thereafter, the general question of medical examination for particular employment or of medical examination in general will no doubt be decided in relation to the conditions of employment rather than in view of the means by which labour is obtained. For the present, in recruiting areas, not only is medical examination compulsory under many laws, but provision is made in certain cases for separate examinations both at the place of recruiting and on arrival in employment.

From the following summary of the law and practice it will be seen that in many cases it is one of the duties of the public officer supervising actual recruiting to see that the medical examination has taken place, and that the worker is duly certified as fit for his proposed employment. In point of time, therefore, the medical examination may come before the subject treated in the previous section. The present order has been adopted, as medical examination is also one of the detailed measures prescribed for the protection of recruited workers, the application of many of which would succeed the administrative supervision of recruiting, and also, as mentioned above, since in some cases medical examination is compulsory both before attestation and on the workers' arrival at their destination.

In the *Belgian Congo*, the Ordinance of 18 June 1930 makes the following provisions for medical examination:

No Native may be recruited or engaged unless certified fit for the proposed employment. He is required to be so certified by a Government medical officer or other recognised medical practitioner, or should there be no such person within 12 kilometres of the place of recruiting or engagement, by a European medical assistant, by an inspector of industry and commerce, or by the district officer. In the last case, the certificate is only provisional, and the employer is required to bring the worker before a qualified doctor as soon as possible.

If so decided by the Provincial Governor, the *Pignet*¹ index serves as the basis on which certificates of physical fitness may be granted to Natives recruited for employment at more than 25 kilometres from the place of recruiting. The certificate states that the worker is an

¹ Relation between height and weight and chest measurement.

adult and fit for general labour or specifies on what light services he may be employed.

The certificates for physical fitness are entered in the work-books issued free of charge to the workers. The certificates remain valid for the whole period of employment under the same employer.

Medical officers responsible for the medical inspection of workers may order that special steps shall be taken in the case of workers who are employed for the first time in industrial undertakings and have been engaged for at least six months. Vaccination against smallpox is compulsory and is performed at the time of the medical examination. If the medical certificate is not issued by a doctor, vaccination takes place as soon as possible.

In contrast with the regulation of some of the other details of recruiting, the laws in force in the *British Commonwealth* are often less strict in regard to compulsory medical examination than in the territories of some of the other Colonial Powers. Nevertheless, in addition to the obligation to obtain a certificate of medical fitness for workers recruited for employment abroad (see next Chapter), a general obligation to obtain such a certificate for all recruited labourers is to be found in certain territories.

In *Northern Rhodesia* and *Kenya*, no labour agent may without the consent of the proper officer engage a Native until the Native has been certified by a Government medical officer to be physically fit to perform the work contemplated.

In the *British Solomon Islands Protectorate*, a medical officer or an officer with medical knowledge and experience nominated by the Resident Commissioner is required, where conveniently available, to examine all Natives engaged under contract and no Native may be engaged who is pronounced to be physically unfit for the intended employment. In the *Gilbert and Ellice Islands*, a recent amendment to the *Labour Regulation* (No. 1 of 1932) provides that no contract for more than one month shall be ratified unless the intending labourer and his wife and family, if accompanying him, have been passed by a duly qualified medical practitioner as free from infectious or contagious diseases, and in the case of the labourer, as physically fit for the employment contemplated. In the *Mandated Territory of New Guinea*, before any recruited Native begins work, the recruiter is required to bring him before a medical officer or medical assistant in order to ascertain whether he is fit for the class of work for which he is engaged.

In other territories certain categories of recruited workers are subject to compulsory medical examination. In the *Union of South Africa*, the regulations in force in the Orange Free State, the Transvaal and the labour districts of Natal, provide that no Native labourer may commence work until he has been vaccinated, medically examined and passed by a medical practitioner, approved by the Director of Native Labour. The term Native labourer, however, has a limited definition, meaning only Natives employed on or recruited for mines or works; other recruited Natives would apparently not be liable to compulsory medical examination. It may be noted that the practice of medical examination as followed by the Native Recruiting Corporation provides for a minimum of two medical examinations of Natives recruited for gold mines.

In the *Mandated Territory of South-West Africa*, no Native labourer may be employed on mines or works until he has been medically examined, vaccinated if required, and certified as fit for work by an approved medical officer.

for enrolment, after which those who are unfit or of doubtful health are required to be repatriated at the employer's expense. The Instructions of 1 August 1930 provide that during the first five days after the arrival of the contingent of recruits at their destination, the doctor must examine each man individually and certify his state of health in the medical employment register.

In *Indo-China*, before the signing of the contract each worker is required to be medically examined, and those unfit to be rejected.

In *Madagascar*, by section 31 of the Decree of 22 September 1925, Natives recruited for employment outside their district of origin are required to be examined before the signing of the contract by a medical practitioner appointed by the regional employment office, who shall, if necessary, forbid or postpone their departure.

In the *Netherlands Indies*, the provisions concerning the recruiting of Natives in Java for service under penal sanctions in the Outer Provinces require medical examination in Java, either in the interior of the country or at the port of embarkation. In practice, however, many employers, particularly the planters of the East Coast of Sumatra, examine their workers a second time on their arrival in the Outer Provinces. Before leaving Java the recruits are required to be vaccinated against smallpox, and, if thought necessary by the Chief Medical Officer of Health, against cholera, typhoid and cerebro-spinal meningitis.

In the case of recruiting by *Eigen Werving* organisations, the medical examination is in accordance with requirements of the Public Health Service, which lays down the standards for agricultural or mining employment, appoints the medical practitioner and fixes the maximum fee to be charged for each person examined. Before 1914, when practically all recruiting was in the hands of professional recruiters, the doctor was appointed by the recruiter, an arrangement which frequently gave rise to abuse.

Under the *Portuguese* Native Labour Code of 1928, although detailed provision is made for the medical protection of workers in employment, medical examination at the time of recruiting is only compulsory if so decided by the attesting officer. Section 99 provides that contracts shall not be made with Natives who are old, rachitic, of unsound mind or suffering from sleeping-sickness or any other disease or infirmity, rendering them unfit for work. The Curator or his agent are required to refuse to co-operate in the drawing up of contracts or to ratify those drawn up without their co-operation in cases where the unfitness of the Natives for work is manifest. In doubtful cases they may require that the Native be examined by a medical practitioner. It is also provided in section 263 that medical inspection to ascertain whether the Natives are fit for work may be made on the initiative of the recruiters or employers but that nevertheless the Curator or his agent may enforce such inspection when drawing up contracts, subject to the cost being borne by the public medical service.

The 1906 Regulations concerning Native labour in the *Spanish* possessions of the *Gulf of Guinea* prohibit the engagement for agricultural employment of workers over sixty and under fifteen years of age (children between ten and fifteen may be engaged for light work), and persons suffering from rickets, insanity, sleeping sickness and other infectious diseases. A Decree of 28 October 1922 provides for the compulsory medical examination of workers embarking at Bata or Elobey for Fernando Po. Instructions dated 29 March 1933, issued by

the Chief of Endemic Diseases Mission, require the medical officers of each medical zone to examine recruits, in particular for traces of sleeping sickness and to vaccinate them against smallpox. Natives recruited in continental Guinea are examined within their local medical zone and, if fit, supplied with a medical pass without which no worker is allowed to leave the zone. Leprosy Regulations dated 5 October 1933 prohibit the recruiting of lepers and make recruiters responsible for notifying any cases among their recruits.

§ 3. — Limitation of Advances

The urge in recruiting territories to enter into European employment is often not the general economic motive of wage-earning for subsistence but the necessity of meeting some exceptional cash demand, such as the annual tax, which the traditional subsistence farming cannot satisfy. It thus happens that the chief inducement which a recruiter may offer to prospective workers is not satisfactory conditions of employment but a cash bonus generally in the form of an advance repayable from wages. While, however, it may be perfectly reasonable that a worker on entering on employment of perhaps a year's duration or more should be given an opportunity of meeting his fiscal obligations and making some provision for the welfare of his dependants, excessive advances have had the effect of encouraging extravagance, binding the worker to his employment and raising the desertion rate from employment.

The situation has been described as follows in the annual report for 1931 of the Seychelles Medical Department:

"The owners send round word by one of their clerks that they want men, and offer as an inducement two or four months' wages as an advance. The negro is a child of nature, money means women and drink; he knows the hardships and discomforts of these islands, often short of rations and the terms of his contract not complied with, no redress until he is visited by a magistrate or Government official. But the lure is there, money is freely offered if he will sign a paper, engage for the islands, immediate payment of Rs.10 or Rs.20 cash.

"Very few of the negroes can resist the temptation, money to get drunk and have women; he goes to the agent, signs on and then goes on a debauch for a few days when he has spent two to four months' wages. He is bound to go to the islands, otherwise he will be arrested by the police, and punished for failing to carry out his engagement. When the labourer goes to the islands he has no wages for some months, and yet due to the lure of an advance when he once more returns to Mahé, he will again and again engage himself, as the advance means the satisfying of his animal passions—drink and women.

"It is not a pleasant picture as to how labour is recruited and yet it appears to be the only system that can be utilised by the lesser of the islands if they want labourers. If advances were not given labourers would decline to sign on. Since labour has been recruited for the islands

this is always the procedure. The mentality of the Seychelles labourer is such that if any check or discontinuation of the system was attempted, the greatest difficulty would be encountered to recruit sufficient labourers for the outlying islands."

The Administration of *Cochin-China*, in its reply to the French Ministerial enquiry into labour problems, also insists on the disadvantages of advances and illustrates how they may be an important element in creating inefficiency among the labourers and in encouraging desertions.

"The Annamite worker, extravagant and addicted to gambling, will take every opportunity of obtaining the reward for future gain while postponing the corresponding effort to the future and will pledge his potentialities so long as he can find the necessary credit. He forgets his debts as rapidly as he contracts them and honestly considers himself ill-treated if made to repay them after a long period. The result is that the work furnished with the prospect of a reduced tangible wage is usually of little value and often desertions are solely due to the desire to avoid repaying an advance.

"With the Asiatic employer, who has other means than a European of finding a worker who has fled among his fellows, advances and their renewal form a veritable chain binding the worker almost indefinitely to his employer in return for merely nominal wages."

In certain cases where labour is recruited for employment abroad the laws provide that on entering employment the worker shall be considered as free from all debts incurred in the process of recruiting so that any advance to be repaid from wages is illegal. The laws governing recruiting for employment in the territory of origin are usually not so strict. The dangers, however, of permitting unlimited advances on wages are checked by rules of two kinds. In the first place the amount of any advance may be limited by fixing a maximum cash sum, by providing that such a sum shall be fixed by the proper officer, or by otherwise limiting the amount as by stating that only a certain percentage of the wage may be deducted at any one time for the repayment of advances. Secondly, it may be provided that no cash payment may be treated as an advance on wages unless it has been made under the control of a public officer.

In the *Union of South Africa*, regulations issued under the Natives Advances Act, 1921, provide that no person or his agent desiring to employ a Native may make an advance in excess of £2 or of £3 where the period of contemplated employment is nine months or more. In the Transkeian territories a form of agreement has been prescribed by which advances made by the recruiters are recorded. The agreement is signed by the recruiter, the Native and an independent witness.

In *Basutoland* and *Bechuanaland*, the labour laws provide that no labour agent may make any advance to a recruited Native in excess of the sum or value of £2, exclusive of any charges for railway transport

or any amount due for any Native tax or fine. No interest may be charged on the advances made. In *Swaziland*, a regulation of 1933 makes similar provision except that the maximum advance is fixed at £5.

In *Southern Rhodesia*, no person recruiting Native labourers may make any advance in excess of £2 exclusive of charges for railway transport and no interest may be charged on the sum advanced.

It is provided in *Nyasaland*, under a 1926 Proclamation, that no advance made to any recruit in excess of 6s. shall be legally recoverable.

In the *Mandated Territory of Tanganyika*, the Recruitment of Native labour Regulations, 1927, make it a condition of any permit granted to a labour agent that no advances shall be made exceeding one-half of the monthly wage payable to the servant and in addition the tax payable by the servant under the Hut and Pole Tax Ordinance.

A provision in the *Nigerian* Labour Regulations, 1929, states that no contract under which a servant has engaged to repay to his employer any payment he made in connection with recruiting shall be made enforceable against the servant.

Advances made to labourers proceeding to outlying islands of the *Seychelles* Group are limited to one-third of the wages payable under contract. All advances must be made in the presence of a government officer.

In *British Guiana*, no advance made to an aboriginal Indian or half-cast may exceed half-a-month's wages. All advances are required to be made in the presence of the attesting officer and certified by him.

In *British Honduras*, when an agreement has been or is about to be entered into between an employer and a labourer, the amount of advance made may not exceed one-half month's wages. It is, however, lawful for the proper officer to give permission at the request of a labourer for extra payment for the purpose of defraying any expenditure in respect of medical attendance for the labourer or his family or for funeral expenses or to replace effects destroyed by fire, flood or other accident, or generally in any case in which the labourer's need of assistance is due to misfortune and not extravagance, and in which a good employer would feel it uncharitable to withhold assistance from a person in his service.

In the *British Solomon Islands Protectorate*, an employer or recruiter may at the request of the recruit advance him up to one-quarter of his payable wage, such advance to be endorsed on the contract before it is approved by the proper officer.

The payment of advances in *Fiji* is prohibited. Earnest money is permitted in the form of a cash payment to the amount of £1 or less. Such a payment is not recoverable either by deduction from wage or otherwise.

In the *Mandated Territory of New Guinea*, bonuses may be paid at the time of recruiting of £1 to a Native engaging for three years, 15s. to a Native engaging for two years, and 10s. for a Native engaging for one year. Advances paid at the time of recruiting are noted in the contract of service and attested by a public officer.

The general effect of *French* colonial legislation is to make advances illegal unless granted at the time of engagement and then only if the amount and manner of repayment has been fixed by the authority.

In the *Cameroons under French Mandate*, section 15 of the Decree of 9 July 1925 provides that advances made to workers may not exceed a quarter of their wages.

In *French West Africa*, the Order of 29 March 1926 provides that advances on wages may not be granted at any other time than on engagement. The amount of these advances and the terms of repayment are to be fixed by the administrative authority.

The local laws of the various colonies of French West Africa contain the following provisions. In Dakar any advances on wages are required to be mentioned in the contract; they are repayable in four instalments by deduction from wages. In the Sudan the maximum advance is one month's wages, repayable in three instalments if the engagement is for more than six months and in two instalments in other cases. In the Ivory Coast no advance may be made to Natives either on engagement or during employment. In Mauritania advances are limited to one month's wages, repayable during the first two months of service.

In *Madagascar*, section 25 of the Decree of 22 September 1925 provides that an employer who has made a cash advance at the time of the signing of the contract may not reimburse himself otherwise than by means of successive deductions which shall not exceed one-tenth of the amount of the wages due.

In *Indo-China*, money may be advanced to contract workers before their entry into employment or in course of their employment. The total amount of the advances shall be repaid by monthly deductions from wages provided that such deductions do not exceed one-fourth of the wages of the worker. On the normal expiry of the contract the employer may not detain the worker on account of debts.

In the *Netherlands Indies*, advances made to workers engaged under penal sanctions may not exceed amounts fixed by the authorities. This rule applies whether the workers are engaged in Java and Madura or in the Outer Provinces. In cases of advances made to workers coming from Java and Madura, payment may be effected only when the recruited workers have left Java, either at the port of disembarkation or at their destination. The object of this rule is to prevent the money being used before the workers' arrival at their employment for other purposes (e.g. gambling) than those for which the advance was intended (e.g. the purchase of clothes, household goods, etc.). An exception has been allowed in the case of the more or less skilled workers recruited by the *Eigen Werving* organisations where their wages exceed a certain minimum. Such workers are allowed to receive their advances before leaving Java, payment being made in the presence of the proper officer.

The *Portuguese Native Labour Code* of 1928 contains detailed provisions regulating advances. Employers or recruiters may advance certain sums to workers in furtherance of their interests. The maximum amount of the advance is calculated in proportion to the wages and period of employment fixed in the contract and may not exceed a sum which can be repaid in monthly instalments of one-fourth of the wages if the contract is for a year or more, or of one-third of the wages if the contract is for less than a year. In the case of oral contracts the employer may pay the worker a sum not exceeding one week's wages if the contract is by the working day and not exceeding one-third of the monthly wage if the contract is for domestic service. An employer is not entitled to enforce payment in money or in work of any sums which he has advanced to his workers in excess of the said proportions. Advances may not be made in any other form than money.

If the contract is drawn up with the co-operation of the authorities or in writing, the advance is made in the presence of the authority

drawing up or ratifying the contract and entered by the authority in the contract.

Irrespective of the amount of the advance and the period during which the worker has been employed the advance is deemed to have been repaid when the worker has been in the employment of his employer for the period fixed in his contract or has been dismissed by the employer before the end of his contract.

An advance for the payment of the Native tax shall not be made under any contract for employment within the administrative area. An advance for tax payment may be made under the contract for employment outside the area only for the financial year following the drawing up of the contract, exclusive of any fine for delay in payment.

In the *Spanish* possessions of the *Gulf of Guinea*, the 1906 Regulations limit advances to two months' wages where the workers are recruited by employer or their agents and to 20 pesetas where the workers are recruited by official agencies. The advances are noted in the contracts and are repayable by four monthly deductions from wages.

§ 4. — Travelling Expenses

The question who should bear the cost of the journeys of recruited workers may be governed by the general conditions prescribed for workers proceeding to employment. It nevertheless appears of value in this international survey to separate the responsibility for bearing the cost of transport from the other problems of travelling conditions as it involves an important question of principle.

From the following summary of colonial laws it will be seen that there is substantial agreement that the cost of bringing the recruited worker to his employment should not be borne by the worker. To this agreement, however, the Union of South Africa and other parts of Southern Africa form an important exception.

The reasons for the continuance of the South African practice are the possible economic repercussions of a change in the existing system and the view that the granting of free transport to recruited workers might run counter to any general policy of encouraging the spontaneous labour supply.

In regard to the economic aspect of the question, it is stated that wage rates in South Africa are based on the assumption that the worker will meet or repay his own travelling expenses. The South African Native Economic Commission of 1930-1932 found, for example, that on the Natal sugar estates the average travelling expenses of a Native represented from 27 to 37½ per cent. of his cash wages. If this cost were assumed by the employer, it is said that either wages would automatically rise by such a percentage

or the employer would try to enforce a reduction to meet his extra expenses. It is not competent to the Office in this Report to discuss the question of wage standards in the territories under consideration, nor would it be in place here to consider whether, in face of a practical difficulty of this kind in one of the most important areas of Native labour, exceptions to the general rule that travelling expenses should not be borne by the worker should be made in any international regulations that may be drafted. It will be for the Conference to consider this point.

The question of the possible effect of the application of the principle of payment by the recruiter or employer of travelling expenses on the development of a spontaneous labour supply would appear, however, to need further consideration, since, if it were correct that the payment of travelling expenses might induce Natives, instead of coming forward spontaneously for employment, to remain in their villages until they were recruited, the principle might be invalidated.

The objection here advanced is not dissimilar from one brought forward during the discussion of the Forced Labour Convention. It was suggested then that, if the conditions of forced labour were made too favourable, the primary object of the Convention would be defeated since voluntary labour would be under no inducement to offer itself. The answer that forced labour was such an exceptional form of economic and social policy that its employment had to be surrounded by exceptional guarantees, and that the chief means of bringing an end to the system was not by tolerating its abuses but by raising the general standards of free workers, has a certain application to the case under discussion.

Recruiting, as the precautions imposed by the laws show, is an exceptional means of obtaining labour. The necessity for it will diminish as the general advance of conditions creates a class accustomed to amenities of life which can most easily be obtained by wage-earning employment. The general purpose of Government policy is therefore to be achieved in spheres beyond the necessarily limited scope of measures for the regulation of recruiting. It would seem then that no protective measure of value in the regulation of recruiting should be discarded on the ground that the general improvement of conditions of employment has not yet given similar advantages to workers who are not recruited. Moreover, the encouragement of the spontaneous offer of labour in place of recruiting is not a policy dictated solely in the interests of the workers. The efforts made by the South African Native

Recruiting Corporation to facilitate the flow of non-recruited labour to the mines suggests a preference on the part of employers for workers with a sufficient sense of responsibility to come forward for employment without awaiting the artificial stimulation of a recruiting campaign.

The Committee of Experts on Native Labour, after examining these objections to the payment of the worker's travelling expenses by the recruiter or employer, decided—Major Cooke, the South African expert, dissenting—to insert the principle in its recommendations.

The law and practice regarding the responsibility for travelling expenses may be summarised shortly, since the main details of the protection of recruited workers during their journey to employment will be given in the next section. One other point is dealt with in the following summary, in addition to the question of travelling expenses, and that is the responsibility for the cost of repatriation where the worker, through no fault of his own, does not enter employment. It will be seen that on this point South African practice is in line with general practice.

In the *Belgian Congo*, from the time the recruited worker leaves his village the recruiter is under an obligation to provide for his maintenance during the journey, and this covers travelling expenses. The recruiter is also under an obligation to repatriate the recruit, if the recruit so desires, during the journey or even after the recruit has entered his employment, if the employer is not responsible for repatriation. The right to demand repatriation from the recruiter in this latter case remains valid for a year after engagement.

As already stated, in the *Union of South Africa* the cost of the journey from the place of recruiting to the place of employment is borne by the worker. Money is generally advanced or transport provided by employer or recruiter and the cost deducted from the worker's wages. In *Basutoland*, *Bechuanaland*, *Swaziland* and *Southern Rhodesia*, the charge for transport is also considered as a legitimate advance against the worker's wages.

Elsewhere in territories administered by *Great Britain* or the *Dominions*, it is more usual for the cost of transport to be borne by the employer or recruiter.

This would appear to be the case notably in the *Pacific Islands*, where the travelling usually takes the form of a sea passage, although it is not always expressly provided for in the legislation. However, in *Fiji*, the law obliges the employer to provide the worker with conveyance as well as proper accommodation and maintenance during the journey to the place of work. In the *Gilbert and Ellice Islands*, the form of contract prescribed under the law provides that the employer agrees to give every worker free conveyance. In the *Mandated Territory of New Guinea*, the costs of conveying the worker are a legal obligation on the employer.

In the following cases provision is made in British Commonwealth territories for free repatriation in certain eventualities:

In the *Union of South Africa* and in *Southern Rhodesia*, a contract may be cancelled if the Native labourer is, by physical or mental infirmity, incapable of performing his work, and, should the labourer desire to return to his home, the cost is borne by his employer.

In *Northern Rhodesia*, any Native rejected on medical examination is required to be returned to his home, or the place of recruiting, at the expense of the party who recruited him or produced him for medical examination. With the consent of the proper officer the Native may, as an alternative, be given employment suitable to his physical state.

In *Kenya* and in the *Mandated Territory of Tanganyika*, any Native rejected as physically unfit for the work contemplated is returned to the place of recruiting at the expense of the employer or labour agent, should the Native wish to return.

In the case of British recruiting in the *New Hebrides*, where contracts are provisional until approved by the Resident Commissioner, a provisional contract may be cancelled if the labourer is certified to be unfit. In the event of cancellation the return home of the labourer and of his family is arranged by the Commissioner who charges the cost to the recruiter. In the *Gilbert and Ellice Islands*, if the labourer or members of his family accompanying him are not pronounced fit to proceed to the place of employment, the Resident Officer is required to order the return of the labourer and his family at the charge of the engaging employer to the island at which the labourer was embarked. In the *British Solomon Islands Protectorate*, the recruiter is under an obligation to provide the labourer and his family, if accompanying him, with a return passage home, rations, medical care and accommodation, if the Native does not enter into the contract of service.

In the *Mandated Territory of New Guinea*, should the proper officer decide that a contract should not be entered into by a Native worker, the Native is returned by and at the cost of the recruiter unless the officer makes some other order. Any person who takes a Native away from his home in *Papua*, except as a bona fide passenger, is responsible for his return when the purpose has been accomplished.

In *French West Africa*, section 30 of the Order of 29 March 1926 provides that the cost of transportation of workers from their place of engagement to their arrival at the workplaces shall be borne exclusively by the employer, as well as the cost of transporting the workers' family when accompanying the worker in accordance with the terms of the engagement.

In *Madagascar*, section 29 of the Decree of 22 September 1925 provides that the cost of transport by sea, rail or motor of persons engaged for work and the cost of their food shall be borne by the employer.

In the *South Sea Islands under Japanese Mandate*, the cost of passage and other necessary transport expenses of Native labourers recruited for the phosphate mines are borne by the mining station.

In *India*, the Tea Districts Emigrant Labour Act, 1932, applies to assisted emigration to Assam only, "assistance" meaning the gift or offer to any person of any money, goods or ticket entitling to conveyance as an inducement to such person to proceed to Assam to work as a labourer on a tea estate.

In the *Netherlands Indies*, in the case of recruiting by the *Eigen Werving* organisations, legislative and administrative texts provide that

all expenses incurred in the transport of the recruited worker and of his wife and minor children if accompanying him from the interior of the country to the port of disembarkation in the Outer Provinces shall be borne by the recruiter. The recruiter is also responsible for repatriation expenses if, as a result of medical examination, the recruit is found to be unfit for employment, if he refuses to enter into the employment, if he appears not to be capable of entering that employment, if for any reason the recruiter declines to enter into a contract with him or if the proper officer refuses to attest the contract.

According to the conditions imposed on the V.E.D.A., the organisation is required to bear the travelling expenses of the worker and his family until they have reached the place of employment and all accommodation, food and medical expenses so long as the recruit is in Java. The recruit may take with him at the expense of the V.E.D.A., in addition to his family, an adult person or two minor persons from among his own relatives, should they be either so old or so young that otherwise they would remain destitute. The V.E.D.A. must also repatriate the recruit and any persons accompanying him, if after his arrival at the undertaking he refuses to accept employment or if he is found to be unfit for work.

Within the Outer Provinces the transport of the worker and persons accompanying him from the port of disembarkation to the undertaking is, in virtue of the 1931 Coolie Ordinance, borne by the employer who is also responsible for accommodation and medical attendance.

Under the *Portuguese Native Labour Code* of 1928, the expenses of the transport of Natives from the place where they are recruited to the place where they are to be employed, and likewise the expenses of the return journey from their employment to the office of the Curator's agent where they entered into the contract, are declared in all cases to be a charge upon the employer or company on whose behalf contracts were entered into with the Native.

§ 5. — General Travelling Precautions

In many tropical areas economic and social development is still primarily a problem of transport. One comment will be sufficient here to emphasise the degree to which the lack of transport facilities may endanger the welfare of workers and prejudice the labour supply.

The Governor of Northern Rhodesia, in a speech to the Legislative Council in August 1928, stated:

"If the loss in time and energy occasioned by the labourer having to walk hundreds of miles to his place of employment could be saved, the potential value of the labour supply would, it may be hazarded, be increased by something like 50 per cent. The Native inhabitant of the Tanganyika Plateau to-day walks 300 miles or more to find employment at 6d. a day rather than be content with 2d. nearer home. . . . It takes him three weeks or more to complete his journey and with a scant and uncertain supply of food on the way he not seldom arrives and engages on labour to which he is utterly unaccustomed in a half-starved and emaciated condition."

For this reason the administrations and the more powerful recruiting organisations have paid particular attention to the precautions to be taken on the journey. Provision is often made that, wherever possible, the worker should be transported by rail, boat or motor transport and that every precaution should be taken to safeguard the welfare of the worker on his way to employment.

In the *Belgian Congo*, the Ordinance of 18 June 1930 makes the following provision for the journeys of recruited workers.

Immediately upon being recruited every Native is provided with a blanket made of wool, half wool or of cotton, weighing not less than 1,400 grm. and a loin-cloth or similar garment. His wife, if accompanying him, also receives a loin-cloth and, if pregnant, or accompanied by a child not yet adult, a regulation blanket¹. The Provincial Governor may prescribe that in certain regions or during certain periods workers shall be supplied with a jacket weighing not less than 300 grs.

During their journey to the place of employment recruits may not be required to walk distances exceeding 30 kilometres a day, to carry any loads other than their personal baggage and their provisions for each stage, or to perform any forced labour which is not for their own benefit and in their own interests. They are entitled to a complete day of rest after each period not exceeding six days' march. If the journey is unduly prolonged, the worker is entitled to wages as from the second day following that on which he would normally arrive at the place of work.

During the journey the conductor may not leave behind a sick recruit except with the latter's consent and on condition that he is entrusted to a person who agrees to take care of him. In such cases the conductor notifies the local authority.

If there is a public service providing safe transport, the recruiter or employer is required to provide at his own expense for the transport of the recruits if the distance to be covered exceeds 25 kilometres. Transport by steamer is subject to the statutory provisions respecting shipping supervision; transport by railway may not be provided for a number of travellers exceeding the accommodation available. The number of Natives carried in motor vehicles may not exceed three per square metre of the space reserved for them.

In territories administered by *Great Britain* and the *Dominions*, except in the Pacific areas, the law does not usually lay down conditions for the journey in such detail, but the matter appears to be a subject of constant attention by the authorities.

In *Southern Africa*, the existence of powerful recruiting organisations and extended means of communication has enabled the problem of delivering the labour in reasonable health to be solved with comparatively little direct Government intervention.

In the *Union of South Africa*, Government regulations provide that the licensed conductors shall be responsible that the Native labourers under their charge are properly fed and accommodated during the journey and for the safe custody of their railway tickets and their

¹ The obligation to supply a blanket is relaxed if the contract is for less than six months, or if the worker's wage is above a minimum fixed by the Provincial Governor.

effects. The Native Recruiting Corporation maintains district offices where, after medical examination and attestation, recruits are forwarded to the nearest entraining station to travel by train to the Johannesburg depôt which is maintained by the Witwatersrand Native Labour Association. The staff of this central depôt consists of a manager, six whole-time medical officers and in addition fourteen Europeans and forty-five Natives in the compound and ten Europeans and forty-two Natives in the hospital. The Union Government is represented by a whole-time officer with staff and the Portuguese Government by a whole-time inspector. The depôt is some 200 yards from the railway station. Recruits arriving pass through a process of deverminisation, are then medically examined and distributed to the mines.

In the *Mandated Territory of South-West Africa*, it is provided that any Native labourer recruited for mines or works must be furnished, during the time occupied in travelling to the employment, with sufficient rations of good quality to the satisfaction of the competent authority. If the employer fails to make adequate provision, the competent authority may arrange for the supply of rations and recover the cost from the employer.

As regards transport, it may be noted that the death rate on the copper and vanadium mines was at one time particularly high (82.4 per 1,000 workers in 1929), partly because the Natives from the North arrived at the mines run down by the hardships of a long journey with insufficient food supplies. The Northern Recruiting Organisation, therefore, put into effect a programme of reform, which included the transport of Natives to the railhead by motor lorries and the employment of new arrivals on light work for the first fortnight.

In *Southern Rhodesia*, the Rhodesian Native Labour Bureau and the Administration organised rest houses and free ferries for recruited and other labour seeking employment.

The absence of any powerful recruiting organisations in the British *East African Dependencies* has left the task of providing for the welfare of Natives travelling to employment a matter primarily for the administrations.

In the *Mandated Territory of Tanganyika*, the prescribed form of contract provides that rations for the journey must be supplied by the employer. At one time it was suggested in this territory that labour control camps should be maintained by the Government at the principal junctions of labour routes, and in between them smaller and less elaborate camps by the employers' associations. It appears, however, that the only existing camps are maintained by Government. During 1933, a year of decreased labour demand, thirteen such camps were in existence, which accommodated a total number of 136,542 Natives, while the number of patients whose minor ailments were treated at the dispensaries attached to these camps was 21,506.

It would appear in practice that one of the principal duties of officers attesting contracts in the British African territories is to see that suitable provision has been made for the journey. This is expressly provided for in *Northern Rhodesia*, where the district officer may insist on the insertion in any contract of conditions making adequate provision for the feeding of the worker during his journey to and from employment, the payment of his railway fare for such portion of the journey as should, in the opinion of the officer, be made by railway, and his transport by motor lorry or vehicle in similar circumstances.

In the *Pacific Islands*, a great deal of the transport of recruits is done by sea, and in these areas the administrations have taken legal

authority for safeguarding the journey from place of recruitment to place of employment.

In the *British Solomon Islands Protectorate*, the law requires that any person who recruits a Native shall provide him and his wife and children, if accompanying him, with proper rations, medical care and accommodation until the Native enters into a contract or is provided with a return passage home. No vessel may be used for recruiting Natives or for carrying Natives who have been recruited unless the owner or master has obtained a licence for such vessel.

In the *Gilbert and Ellice Islands*, it is unlawful to carry Native passengers on board any vessel except under a licence to be obtained from the Resident Commissioner.

In the *New Hebrides*, the legal requirements for the care of Natives recruited for employment by British subjects are similar to those of the Solomons. Further, no British vessel may be employed in recruiting or transporting Native labourers until it has been examined and certified as suitable for that service. It is also provided in the law relating to recruiting by British subjects that the time spent by the labourer on board ship prior to his arrival at his employment shall count for wages.

In the *Mandated Territory of New Guinea*, a recruiter may not use a ship for recruiting unless the ship and the master are licensed and unless the licence has been endorsed by a district officer to the effect that the ship is properly equipped with medicines and stores.

In *Papua*, when a Native is taken from any place in the territory for any purpose whatever, the person removing the Native undertakes to supply him with food, accommodation and clothing from the time when the Native was taken away until he is returned to his home, though such arrangements may be regulated under the contract. Provision for the licensing of ships carrying recruited labour is also made in *Papua*.

In *Fiji*, labourers may not be carried on vessels of less than a certain tonnage nor in excess of a number laid down in regulations.

An example of the detailed requirements consequent upon the licensing of the ships is provided in the *New Guinea* legislation. The capacity of each ship is required to be for each Native carried 1 square metre in area and $1\frac{1}{2}$ cubic metres in air space. Ships licensed to carry one hundred or more Natives must include in the complement a person certified by the principal medical officer as qualified to render first aid. The district officer, a medical officer or other authorised person may at any time inspect the ship and examine the medical supplies, provisions, water supply and recruited labourers. If any irregularity is deemed to have occurred the ship may be seized pending decision of the Administrator, who may order the labourers to be returned home and the recruiter's and ship's licence to be cancelled.

In *French* dependencies, the Ministerial Circular of 22 July 1924 provides that before starting for their employment recruits are to be supplied by their employers with clothes and a blanket of quality and weight to be fixed by the authorities. The employers are also responsible for providing rations in accordance with the normal ration scales.

The *French West African* Order of 29 March 1926 requires employers to provide workers leaving the place of engagement with an outfit sufficient to protect them against bad weather, and rations or a money allowance for themselves and their families. The Instructions of 1 August 1930 specify that when the journey exceeds 50 kilometres,

workers are to be transported by train or motor lorry; the officer will see that there is no overcrowding; every man should have room to sit.

In *Madagascar*, section 29 of the Decree of 22 September 1925 states that the average daily journey may not exceed 30 kilometres when the party includes women and children. An Order of 28 July 1931 regulates the travelling conditions of Natives outside their home districts on the following terms: When contract workers have to travel to their employment, the local officer prepares a collective pass for each group of fifty workers or less. The pass is handed to the member of the group appointed by the recruiter or employer. It is countersigned by the local officers through whose district the workers travel, and any absentees or complaints noted. The authorities take steps to collect any persons who have dropped behind, see that the sick receive medical attention and take action against contract-breakers. At the end of the journey the pass is returned to the issuing officer by the local officer nearest the place of employment. Workers journeying to the place of work on foot are entitled, in addition to daily rations fixed by the regional employment office, to half the daily wage laid down in the contract.

In *Indo-China*, section 13 of the Order of 25 October 1927 provides that, from the time of recruiting to the time of arrival at the workplace, prepared food shall be supplied by the employer free of charge to the worker and to his family if accompanying him.

With regard to controlled emigration areas in *India*, the Tea Districts Emigrant Labour Act, 1932, prescribes that during their journey to Assam recruits and their families must be supplied with food, local Governments being entitled to prescribe the scales of diet that have to be provided.

Emigrants and their families may only be forwarded to Assam from the dépôt of a local forwarding agent in a controlled emigration area by the routes and in the manner prescribed by the Government of India. The Rules issued by the latter provide that transport should take place so far as possible by rail and by boat. In case of transport by rail, the escort of the recruits is obliged, unless he has the general or special sanction of the Controller of Emigrant Labour to the contrary, to detain the recruits at least once every 24 hours for the purpose of enabling them to have a cooked meal outside their compartments. He must also detain them for a rest of at least nine hours in every forty-eight hours of travel by rail.

Every employer or group or association of employers recruiting labour in a controlled recruiting area is obliged to maintain, or to have the right to use, dépôts at reasonable intervals on the prescribed routes by which he forwards assisted emigrants to Assam, for the accommodation and feeding of such emigrants and their families. Local Governments may prescribe the accommodation which must be provided at the dépôts and the sanitary and medical arrangements to be made in such places. All dépôts may be visited by the competent authorities for the purpose of inspecting accommodation, feeding and sanitary arrangements provided for assisted emigrants and their families.

The Government of India has made rules relating to the procedure to be followed on the occurrence of death, or infectious or contagious diseases among assisted emigrants or their families while on the journey. When any person proceeding to a tea garden with assistance or any member of his family is suffering from an infectious or contagious disease or is not in a fit state of health to proceed on his journey, the Controller of Emigrant Labour may detain such person and his family,

send the sufferer to a hospital and cause all necessary arrangements to be made for the accommodation and feeding of the other members of the party so detained. All arrangements for such detention and treatment shall be made by and at the cost of the employer on whose behalf the person in question was recruited. If the sick person is not likely to be in a fit state of health to proceed on his journey within a reasonable time, the Controller may direct that he and the persons accompanying him shall be returned to their home at the cost of the employer concerned.

In the *Netherlands Indies*, the *Eigen Werving* organisations are required to supply persons joining their depots with clothes and sufficient drinking and washing water. The chief of the Labour Inspectorate may also require them to furnish each coolie with a mat and pillow on embarkation and with a blanket on arrival at employment. The recruiter is also responsible in the case both of the worker and of his family for the costs of accommodation, food, and medical attendance. Workers recruited by the V.E.D.A. before embarkation receive a cash payment for the purchase of clothes.

The regulations governing recruiting by the *Eigen Werving* organisations provide that workers shall be transported from the interior of Java to the port of embarkation by land or inland waterway. In practice recruits are usually carried by rail or in motor transport. The voyage from Java to the Outer Provinces is required to be effected by steamship, embarkation being only permitted at the ports appointed by the Governor-General. In the case of the V.E.D.A., the above provisions are presumed and actual practice is the same.

In the Outer Provinces, the 1931 Coolie Ordinance requires the employer of penal sanction labour to see that the transportation of the worker and his family is effected in the manner prescribed by the head of the provincial authority concerned. In pursuance of this provision, the Decree No. 857 of the Governor of the East Coast of Sumatra, dated 30 June 1931, provides that the journey to the undertaking may be effected on foot, on condition that the workers are in no case obliged to walk more than 15 kilometres a day and that for distances of more than 5 kilometres the employer furnishes sufficient and appropriate conveyances for the sick, the children and the workers' personal effects. Should the workers be required to cover more than 15 kilometres a day, transport is compulsory. Similar rules have been issued by the Governor of Atchin and dependencies, the Resident of Riau and dependencies, and other provincial authorities.

In Java the *Eigen Werving* recruiters are required at all places named by the Director of Justice to have at their exclusive disposal suitable depots for the accommodation of recruits and their families. The present *Eigen Werving* organisations are required to maintain depots in the ports of embarkation; they also do so in the interior. The authorities fix the maximum accommodation for each building, the requirements to be met by the dormitories, meeting rooms, bath-rooms, etc., lighting, hours of opening and closing, disinfection, etc. Officers of the Labour Inspectorate, the general Administration and the Public Health service have free access at any time.

In the case of the V.E.D.A., the chief of the Labour Inspectorate is authorised, whenever he deems it necessary for the physical or moral welfare of the recruits, to issue instructions regarding accommodation in Java. In any event, the workers and persons accompanying them must be so lodged that their freedom of movement is in no way restricted.

In the Outer Provinces the Decrees of the provincial authorities require the employers to provide rest camps with satisfactory drinking and washing water whenever necessary.

In case of sickness in a recruiting depot in Java, the sick must be transferred as soon as possible to a hospital or special quarters. In the Outer Provinces the employer is responsible for supplying the worker and his family with medical attendance in suitable sick quarters, and the transport of the sick is in accordance with rules prescribed by the provincial authorities.

Chapter VI of the *Portuguese Native Labour Code* of 1928 contains detailed rules for the transport of workers.

The use of maritime or river vessels or of the railway is compulsory in all cases where available. In cases when part of the journey may be made by sea and it is considered that, even though this route involves less delay, it is more trying for the Natives, preference may be given to other means of transport. Taking account of the various facilities in each colony and the labour routes, the curators are required to draw up itineraries between places of recruiting and employment.

Rest houses are to be established at ports and at other places when Natives are liable to assemble in large numbers.

Journeys on foot are calculated to be at the speed of 30 kilometres a day with one day's rest every 100 kilometres. In the case of transport by rail, the railway undertakings are required to provide a sufficient number of coaches so that each passenger shall be ensured a seat. The transport of Natives in open trucks or other goods trucks is prohibited unless the workers are railway workers travelling on service. Natives are to be allowed the free transport of 15 kilogrammes of luggage. It is declared that when travelling by train they shall not be carried during the journey as prisoners or in any way which robs them of their natural liberty unless they have committed a crime. The guard of every train on which Natives are travelling is responsible for their proper treatment.

The Code contains particularly detailed provisions regarding the transport of workers by sea. Such transport is required to be effected exclusively in passenger vessels with suitable and sufficient accommodation for the number of workers to be carried. In certain exceptional cases the Curator may authorise the transport of recruits in cargo boats when the voyage is between two ports in the same colony and the maritime authority certifies that the vessel satisfies the necessary requirements. Unless it holds a licence issued by the Governor of the colony, a vessel may not carry more than 50 workers for ports outside the colony of embarkation or 100 between ports in the same colony if the voyage lasts more than forty-eight hours. Licences are only granted after previous inspection by an official board, the submission of a declaration by the shipowner or his legal representative that he will make any necessary changes and comply with any special requirements for the health and comfort of the workers, and the deposit of security. Licences may be issued for one voyage only or for any period up to two years. The inspecting board is required to submit a report on the vessel stating in particular whether the vessel has comfortable and hygienic accommodation, where the accommodation is situated, and the maximum number of persons that can be accommodated; whether the necessary arrangements have been made for the separate accommodation of the two sexes; whether the vessel has berths, blankets and other articles in sufficient number for supply to the Natives

during the voyage; whether the equipment can be properly disinfected; whether the medical attendance and accommodation for the sick are sufficient; any alterations to be made in the accommodation and any special measures to be taken during the voyages. Supervision of the transport of workers by sea is entrusted to the port maritime authorities, the curator general and Government commissioners.

§ 6. — Convoying

In certain of the laws under consideration provision is made that when Natives journey in gangs they shall be placed in charge of a responsible person or that when Natives are so convoyed the person in charge of them shall be licensed or subject to some form of administrative supervision.

In the *Belgian Congo*, section 10 of the Ordinance of 18 June 1930 provides that a conductor chosen outside the contingent shall accompany every caravan of twenty-five recruits. If the caravan exceeds this number the conductor shall have assistants at the rate of one assistant for every fifty men to be conducted. If the caravan amounts to 250 Natives, the conductor is to be a white man. The conductor and his assistants are required to ensure that the legislative provisions protecting recruits are complied with. If they are white men, it is their duty to ensure for the recruits the medical attendance which recruiters and employers are required to supply in the contract of employment. The conductors are also under an obligation to provide workers with accommodation for the night.

In the *Union of South Africa*, persons exercising the calling of conductors are required to be licensed, a conductor being defined as any person employed by a labour agent or employer for the purpose of supervising or escorting native labourers to their destination. Conductors are responsible for the proper feeding and accommodation of Native labourers during the journey and the safe custody of their railway tickets and effects. On attestation of the workers one copy of the contract is handed to the conductor for surrender to the registering officer in the district of employment. Similar provisions exist in *Southern Rhodesia*.

In the *Pacific Islands* administered by Great Britain and Australia the duties imposed upon recruiters in certain cases make them personally responsible for conducting the recruited Natives to employment.

In *Papua*, the Native Labour Ordinance states that any licensed recruiter or employer or European overseer who recruits Natives shall personally take charge of and be responsible for the Native until the Native is engaged or has been returned home or until an officer has in writing absolved the recruiter, employer or overseer from responsibility. This requirement has been relaxed by regulation in respect of Natives recruited by an employer for his own service or by his own European overseer.

In the *New Hebrides*, in the case of recruiting by British subjects, the professional recruiter is responsible for the care of the Natives and their wives and children if accompanying them until such time as the employers have taken charge.

It would appear that similar responsibility is implied in the provisions already mentioned under travelling expenses in other Pacific territories.

In *India*, under the Tea Districts Emigrant Labour Act, 1932, assisted emigrants proceeding to Assam from the depôt of a local forwarding agent in a controlled emigration area must be accompanied on their journey by a competent person deputed by the agent in question.

In the *Netherlands Indies*, although convoyers are sometimes mentioned in the texts governing recruiting, no obligation has been laid down that recruits shall be convoyed. Instructions issued by the authorities of some of the Outer Provinces provide, however, that sick persons in need of assistance are to be accompanied by a special convoyer.

The *Portuguese* Native Labour Code of 1928 provides in section 168 that parties of more than thirty workers shall in all cases be accompanied by a European overseer or other person placed on the same footing who shall be responsible for procuring them board and lodging during the journey, shall see that the provisions respecting itineraries and rest days are observed, shall take the necessary measures for embarkation and disembarkation at ports and railway stations, and shall defer all expenses of the journey. No overseer may assume responsibility for supervising more than 300 workers belonging to different employers.

§ 7. — Recommendations of the Committee of Experts on Native Labour

In his book on “The African Labourer”, Major Orde Browne writes:

“Whatever the system adopted for recruiting, it is certain that the circumstances attendant on it are of great importance. If the Natives are to go to work at all, it is essential that this should be under conditions as favourable as possible, as much from the utilitarian as from the humane point of view. Among these, the ensuring of an honest contract and the securing of decent treatment while travelling have an important bearing on the contentment and well-being of the worker and the healthy condition of the labour market.”¹

General agreement with this statement is reflected in the detailed character of the measures imposed upon administrations which have been summarised above. The variety of local conditions makes it impracticable and unnecessary for all the precautions, however useful they may be in particular cases, to be laid down as capable of general adoption. The Committee of Experts on Native Labour adopted the following principles in regard to the protection of workers from the time of recruiting to their arrival at employment:

F. — PROTECTION OF RECRUITED WORKERS

(1) Administrative supervision. — *Recruited workers should be brought by the recruiter before a public officer as near as possible to the place of*

¹ Major ORDE BROWNE: *The African Labourer*, 1933, p. 61.

recruiting; this officer should satisfy himself that the law and regulations concerning recruiting have been complied with, and in particular that the workers have not been subjected to illegal pressure or recruited by misrepresentation or mistake.

(2) Memorandum of information. — Where the engagement of the recruited worker does not take place at or near the place of recruiting, the recruiter should be required to deliver to the worker a memorandum of information, in such form as the competent authorities may prescribe, and containing the particulars necessary to identify the worker and appropriate particulars of the prospective conditions of employment, and, where necessary, the amount of the advances made to the worker.

(3) Medical examination. — Recruited workers should be medically examined as near as possible to the place of recruiting and returned to their homes if found unfit for any work. A second medical examination should be made on arrival at or conveniently near the place of work. The final decision whether the worker is fit to undertake the work for which he has been recruited, or fit for light work or for work after a specified period, should be made to depend on the result of the second medical examination.

(4) Advances. — The amount of the advances of wages that may be made to a recruited worker should be limited and regulated by the competent authorities so as to minimise as far as practicable the indebtedness of the worker when he commences work. It is recommended that whenever possible, such advances should be made in the presence of the public officer before whom the worker is brought in accordance with paragraph (1) above; this officer should also inform the worker that the amount will be deducted by instalments from his wages.

(5) Travelling expenses. — The cost of the journey of recruited workers to the place of work and the expenses incurred in carrying out the requirements of the law or regulations for the protection of the workers during the journey, such as the provision of food, shelter and medical care, should be borne by the recruiter or employer,¹ who should also be responsible for the expenses of returning to their homes any recruited workers whom a medical examination may have found unfit for employment.

(6) Subsistence. — Recruited workers travelling to the place of work should be furnished with everything necessary for their welfare during the journey, as for example, according to circumstances, adequate and suitable supplies of food, drinking water, fuel and cooking utensils, clothing and blankets.

(7) Transport. — Recruited workers should be transported whenever possible to the place of work. The vehicles or vessels used should be in good sanitary condition and should not be overcrowded, medical attention should be available at certain points when the journey is long, and suitable accommodation provided where it is necessary for the workers to stop for the night.

(8) Journeys on foot. — When recruited workers have to make long journeys on foot to the place of work, and the extent of the movement of labour demands it, camps or rest houses should be constructed and maintained at suitable points on the main routes traversed by labour; measures should

¹ Major Cooke dissented from the acceptance of this principle in its present form as he was of opinion that it would adversely affect voluntary labour and seriously disturb existing wage rates in South Africa. He felt that as a necessary preliminary its economic effect would require the closest examination by the Union Government.

be taken to ensure that such camps or rest houses are in good sanitary condition and that they do not become centres for the spread of infectious diseases, and the principal camps or rest houses should be furnished with the necessary requirements for medical attention to sick or injured workers, including emergency wards. Measures should also be taken to ensure that the length of the daily journey is compatible with the maintenance of the health and strength of the workers.

(9) *Convoyers. — When recruited workers have to make long journeys in groups to the place of work, whether on foot or by transport, they should in general be convoyed by a responsible person.*

CHAPTER VII

RECRUITING OF MIGRANT WORKERS

The preceding chapters of this Report have purposely left out of account the special questions arising out of the recruiting of workers in one territory for employment in another territory subject to a different Administration. These special points will be dealt with in this chapter. In deciding to study them separately, the Committee of Experts on Native Labour was influenced not so much by the factor of distance or of conditions of transport as by the actual nature of the problems that arise when the territory of recruiting and that of employment are not under the same Administration. It will be shown later, however, that there are also certain special problems due to the fact that in some cases migrant workers have to be transferred great distances by land or by sea.

Among the migration movements involving recruiting on a considerable scale, reference may be made to the following: recruiting of workers in Mozambique for the Union of South Africa and Southern Rhodesia; migration of Indian workers to Ceylon and Malaya; migration of Chinese workers to Sumatra and the Pacific Islands; recruiting of Javanese workers for Malaya and New Caledonia. It will be seen that in these cases the migration is from the territory of one State to that of another; but in this connection the Committee of Experts also considered the movement of workers from one territory to another of the same State, provided the two are under different Administrations. The present chapter thus deals also with movements such as those of Javanese workers to Dutch Guiana (Surinam), of Natives of Ruanda-Urundi to Katanga, and of Natives of Angola to San Tomé. As in the previous cases, these movements entail special regulations as well as negotiations and co-operation between the two Administrations concerned. Only the migration of workers recruited within territories subject to the same Administration, such as migration in India or the

movement of Javanese workers to Sumatra and other islands of the Sunda Archipelago, remain outside the scope of this chapter; they have in fact been dealt with in earlier chapters.

The law and practice relating to the recruiting of labour for employment in foreign territory show that in nearly every case more stringent regulations than those dealing with local recruiting have been considered necessary. Whereas an Administration can at any time ascertain within the limits of its own territory that the conditions of employment laid down in regulations are observed, it has no means of exercising permanent supervision over its nationals employed in another territory, except when it can obtain such means by way of agreement. As a rule, the Administrations have therefore found it necessary to take special precautions in regard to the recruiting of these workers. Moreover, in certain cases the reasons of social and demographic policy referred to in Chapter III have led to the adoption of special regulations concerning recruiting for abroad. Finally, special protection is needed owing to the actual conditions of transport of the workers, which often include a long sea voyage.

These appear to be the chief reasons why Administrations have reserved the right to prohibit or regulate recruiting for foreign territory. In this way they are able to secure that the conditions of life and work of their nationals in the country of employment comply with certain minimum standards. Similarly, they are able to take steps to prevent excessive recruiting from having a detrimental effect on the demographic and social structure of the territory they administer.

The legislation of nearly all the territories in question empowers the Administration to limit and regulate, for one or more of the reasons indicated above, the recruiting of workers for employment in foreign countries. These powers of restriction may take one of the following forms: in the first place, total prohibition of recruiting for employment abroad, or the imposition of certain express conditions for the authorisation of such recruiting; in this case, the Administration in question decides to keep or protect its labour by a unilateral act. In the second place, the making of recruiting conditional on the conclusion of agreements between the Governments or Administrations concerned; in this case, two Administrations aim at the joint regulation of the protection of the workers involved by a bilateral act. Each of these two methods will be considered in turn, examples drawn from the various laws and regulations being given in both cases. This will be followed

by a consideration of the supplementary measures for the protection of the workers which are considered indispensable in the case of foreign recruiting, and which refer to the methods of recruiting, administrative supervision of recruiting operations, medical examination of recruits, and conditions of long distance journeys.

§ 1. — Prohibition or Limitation of Recruiting of Migrant Workers

The most radical measure for protecting migrant workers consists in the absolute prohibition of recruiting for foreign territory. Certain examples are to be found in colonial legislation.

Thus in the *Mandated Territory of Ruanda-Urundi*, Ordinance No. 6 of 28 February 1928 prohibits the recruiting of workers in the plains of Ruzizi and Tanganyika for employment outside these regions.

In territories administered by Great Britain and the British Dominions, the recruiting of Natives for service outside the territory is prohibited in the *New Hebrides*, *Nyasaland*, the *Mandated Territories of Nauru*, *New Guinea* (except for employment in Nauru) and *Western Samoa*, and in *Papua* (except with permission of a magistrate for certain forms of employment).

In the following territories the laws expressly reserve to the Administration the right to prohibit recruiting for employment outside the territories: *British Solomon Islands*, *Gambia*, *Gold Coast*, *Nigeria*, *Northern Rhodesia*, *Sierra Leone*, *Southern Rhodesia*, the *Mandated Territory of Tanganyika*, the *Union of South Africa* and *Zanzibar*.

In *French Equatorial Africa*, the recruiting of Native workers is permissible only to satisfy the needs of the colony itself.¹

As a rule, however, the limitation of recruiting for foreign territory takes the form of making it conditional on authorisation by the competent authority. This system enables the responsible authorities to introduce such safeguards in regard to recruiting as they consider essential. They may, for instance, prohibit all recruiting entailing the conclusion of long term contracts subject to penal sanctions, as is the case in *India*, or make the issue of the permit to recruit conditional on the existence in the country of destination of such legislative provisions and organisation of employment as are adequate to ensure the protection of the

¹ A Decree of 3 July 1901 re-enacted the provisions of the Decree of 17 June 1895 and 12 January 1897, which were in force in Senegal and prohibited the recruiting and transporting of emigrants without authorisation by the Governor. These regulations were supplemented by a local Order of 29 July 1904, which prohibited the issue of embarkation permits to Natives who wished to take up work in foreign colonies.

Natives' rights and the proper execution of the contract, as is the case in the *Mandated Territory of Ruanda-Urundi*¹.

For *British* territory, the following examples of the system of previous authorisation may be given.

In the British West African Dependencies of the *Gambia*, *Gold Coast*, *Nigeria* and *Sierra Leone*, it is provided that no Native labourer shall be engaged under contract for service outside British territories unless the Governor, with the approval of the Secretary of State for the Colonies, has declared the foreign territory to be one to which the emigration of labourers is lawful.

In *Kenya*, where foreign contracts of service include all contracts to be performed outside the colony, except in Uganda, Zanzibar or on vessels on Lake Victoria Nyanza or calling at the ports of the Colony and Zanzibar only, no foreign contract may be approved without the prior consent of the Governor. Similarly, in *Uganda* a foreign contract, defined as a contract of service to be performed outside the Protectorate, except as a domestic servant or sailor in Kenya or Zanzibar, requires the prior assent of the Governor, unless it is only a contract to serve as a porter in the Sudan, Belgian Congo, or Tanganyika.

In *Fiji*, Natives cannot emigrate, and therefore cannot be recruited for labour abroad, without the written permission of the Governor. In certain cases this permission may be made conditional on the furnishing of security by the employer for the due return of the Native to the colony. Indian immigrants or their descendants are not allowed to emigrate for the purpose of being employed in any kind of manual labour in any country to which emigration from British India is not permitted. Moreover, Indian or Polynesian immigrants or their descendants desiring to emigrate for the said purpose need a passport, which may be issued only with the special authority of the Governor. The employer intending to engage the workers must give security for the due performance of the labour contract.

In the *Gilbert and Ellice Islands*, labourers may be recruited only for service within the territory or for service in any other place within the jurisdiction of the legislature of any British possession or of the High Commissioner of the Western Pacific.

Under the Emigration Regulations, 1933, made under the Free Emigration Ordinance, 1933, of *Mauritius*, any person wishing to engage labourers for the purpose of skilled or unskilled work abroad, or wishing to assist labourers to emigrate for the said purpose, needs a permit from the Governor. The Governor may refuse the permit, or grant it on such terms and conditions as he may deem fit. He may specify the places from which emigrants can be recruited and prohibit recruiting from certain specified classes of the population. The recruiter may be required to furnish a security for the observance of the agreement with the recruits and for the proper treatment of the latter and their dependants.

Indian residents in *Ceylon* are not allowed to emigrate to any British or foreign colony for the purpose of employment as labourers. Native inhabitants of the Island can not be recruited for labour to be performed

¹ Ordinance of 20 August 1930, section 4.

abroad unless for places to which emigration has been declared lawful by the Governor. These provisions do not apply to seamen and domestic servants. In certain cases the employer is obliged to furnish security for the due repatriation of the persons engaged.

For *British Malaya*, under the Labour Ordinance in force in the *Straits Settlements*, emigration of Asiatics¹ under a contract to labour beyond the limits of the colony and of the Federated Malay States is prohibited except to specified countries. The Governor in Council may impose conditions upon which emigration to any country or to any place in any country is permitted. He may also prohibit emigration to any place or estate in any country to which emigration is otherwise permitted if the sanitary conditions obtaining in such place or estate are unsatisfactory, or the treatment and protection of the workers leave to anything to be desired.

In *British Guiana*, no one may engage a member of the labouring class for service outside the colony unless he has first obtained the written consent of the Governor; an exception is allowed for domestic servants not exceeding three in number. In *British Honduras* no employer who is a resident of the colony may hire a labourer to work outside the colony without the sanction of the Governor in Council. In *Trinidad*, no employer or agent may hire a labourer for foreign employment without the Governor's consent.

In *Jamaica*, the *Leeward Islands*, *Grenada*, *Saint Lucia* and *Saint Vincent*, the laws provide that the Governor may designate foreign countries or places to which no person may proceed without a permit.

The recruiting of labour in *China* for employment abroad would seem to be governed by the Labour Emigration Act and the Labour Recruiting Agency Regulations promulgated in April 1918 by the Chinese Emigration Bureau². According to these Regulations all persons, either individuals or companies, wishing to engage in recruiting must have a business permit from the Emigration Bureau. The granting of the permit is conditional on the payment of security, varying in amount with the number of workers recruited. In addition a special authorisation is needed for each recruiting operation. In applying for this the agent must state the place where the workers will be recruited, the country and locality where they will be employed, the kind of work, and the number of workers to be recruited.

In *French* territories, the emigration of Natives, when not unconditionally prohibited, as in French Equatorial Africa, is conditional on the consent of the Administration.

For the *Mandated Territory of the Cameroons*, the regulations distinguish between individual and collective emigration. For collective emigration the Decree of 2 July 1901 provides that a permit must be obtained from the High Commissioner of the Republic for the transport of workers, recruited in the Cameroons, either in a general way or for a specified country, and that this permit may be withdrawn at any time. For individual emigration, the Decree of 9 July 1925 prohibits Natives of the Cameroons from leaving the territory without a personal

¹ Exclusive of assisted Indian emigrants proceeding to their destination.

² TA CHEN: *Chinese Migrations, with Special Reference to Labour Conditions*. Bulletin No. 340 of the United States Bureau of Labour Statistics. Washington, Govt. Printing Office, 1923.

permit issued by the High Commissioner of the Republic or the head of the district, and makes the issue of the permit conditional on the payment of a deposit of 500 francs ¹, repayable on the return of the emigrant.

In *French West Africa*, the consent of the Administration is necessary before operations can be undertaken in one colony of the group for engaging workers and transporting them to foreign territory or another colony of the group.²

In *Madagascar* any Native who intends to leave the colony must obtain the permission of the Governor-General, which takes the form of an embarkation permit, issued free of charge and stating the full name, place of origin, date of departure and place of destination of the holder. Further, no person may undertake the engagement and transport of emigrants or the recruiting of workers engaged for a specified period without holding a permit from the Governor-General. This permit, which is granted on deposit of security, is in principle temporary and may be withdrawn by a decision of the Governor-General.³ Similar restrictions are imposed in regard to the introduction of immigrants in Madagascar by the Decree of 6 May 1903, under which the authorisation of the Governor-General is required, any person undertaking such operations being bound to deposit security for the proper performance of the engagement and repatriation of the workers.

In *Indo-China* all recruiting of contract labour must be approved by the Governor-General in the case of workers intended for territory outside Indo-China, or by the principal administrative officer of the State in which the recruiting takes place when the workers are engaged for an undertaking situated in another State of the Union. The Governor-General retains the right at any time to suspend the emigration of Tonkinese coolies ⁴.

In *India*, under section 10 of the Emigration Act, 1922, emigration for the purpose of unskilled work (which includes agricultural labour) is not lawful except from specified ports and to such countries and on such terms and conditions as the Governor-General in Council may specify. For a number of years the only territories to which the Government of India has allowed emigration of unskilled labour are Malaya (the Straits Settlements, the Federated Malay States and the Unfederated Malay States of Kedah, Perlis, Johore, Kelantan, Trengganu, and Brunei) and Ceylon. The emigration of skilled workers is restricted by the 1922

¹ This provision was amended by a Decree of 13 February 1926, under which the amount of the deposit must be fixed in each case by the High Commissioner of the Republic.

² Decree of 24 April 1928, which was intended to establish effective supervision over all Natives of French West Africa leaving the territory of the colony by land or sea and to restrict this movement, which had assumed considerable proportions during the few preceding years, many Natives being attracted by the chance of earning money on the plantations in neighbouring foreign territory. The four colonies from which the largest number of emigrants are drawn are the Sudan, Upper Volta, Ivory Coast and Dahomey. Although in nearly every case the emigration in question is seasonal, it happens that some of the emigrants by degrees attract their wives and children, friends and comrades to the neighbouring colonies, and tend to settle there permanently.

³ Decree of 6 May 1903, sections 1 to 5.

⁴ Order of 25 October 1927.

Emigration Act in the same way, but they are permitted to proceed to all countries with the exception only of those which the Governor-General in Council may for special reasons have excluded.

In the *Netherlands Indies* all recruiting for employment abroad is prohibited, but in special cases and for important reasons the Governor-General may grant exemption from the prohibition, subject to the conditions he considers necessary¹. In spite of the general wording of this provision, practice shows that it applies only to the recruiting of Natives for employment abroad as unskilled workers (coolies) or more or less skilled workers (*toukangs*) in private undertakings or on public works; this is, in fact, the sense in which the provision has always been interpreted. According to established practice the exemption is granted only in respect of Dutch Guiana and the few foreign territories to which workers from the Netherlands Indies emigrate fairly regularly, namely, the Straits Settlements, the Federated Malay States, Sarawak, North Borneo, New Caledonia and Cochin-China.

For *Portuguese* colonies, the Native Labour Code provides in section 140 that "the Government of Portugal on the recommendation of the Government of a colony may temporarily prohibit the emigration of Native workers from part or all of the territory of the said colony whenever political or economic reasons render this desirable".

§ 2. — Agreements between Administrations

When recruiting for the employment of workers abroad is carried out on a large scale it often gives rise to negotiations between the Administrations concerned, and the agreement resulting from these negotiations may range from a simple exchange of correspondence to a treaty in the proper sense of the term. The Committee of Experts on Native Labour paid special attention to this procedure. It considered that the establishment of the conditions of recruiting in formal texts was a measure tending to serve the interests both of administrations and of workers and employers. It is, moreover, a method which the Recommendation on unemployment, adopted by the International Labour Conference at its session at Washington in 1919, suggested should be generally applied. This Recommendation proposed "that the recruiting of bodies of workers in one country with a view to their employment in another country should be permitted only by mutual agreement between the countries concerned." Similarly, the International Labour Office has drawn the attention of the Migration Committee of its Governing Body to this method of bilateral agreements in regard to migration in general.

¹ Ordinance of 9 January 1887, sections 1 to 5.

In point of fact, colonial legislation already offers numerous examples of agreements of this kind.

Thus for the *Mandated Territory of Ruanda-Urundi* the Ordinance of 20 August 1930, which regulates the emigration of workers, provides in section 23 for exceptional measures to be taken by the Government of the territory in agreement with the Government of the territory where the contract is to be carried out.

As regards territories of the *British Commonwealth in Africa*, large numbers of Natives work in territories other than their territories of origin. Systematic large scale recruiting, however, is at present carried out only on behalf of employers in the *Union of South Africa*. The situation in *Basutoland*, *Bechuanaland* and *Swaziland* has already been treated in previous chapters, since the geographical situation of these territories, their economic dependence on the Union, and the character of the labour recruiting laws makes such an arrangement more convenient for the purposes of this Report. The essential characteristics of recruiting abroad are presented more aptly by the relations between the Union and the Portuguese colony of *Mozambique*.

On 1 April 1909, a Convention was signed between the Portuguese and the Transvaal Governments on the subject of the recruiting of Natives in Mozambique for the Transvaal mines. This text was superseded by a second Convention concluded on 11 September 1928 between the Portuguese Government and the Union of South Africa. The Convention is now under consideration by the two Governments, but is still in operation.

By the terms of this Convention, which is known as the Mozambique Convention, the Portuguese Government authorises the recruiting of Portuguese Natives within the territories of Mozambique situated south of latitude 22° South and under direct State administration for employment in the gold and coal mines of the Transvaal. The number of Portuguese Natives to be employed was to be progressively reduced to a maximum of 80,000 by 31 December 1933.

The recruiting of the Natives, their allotment to the various mines, and their repatriation is entrusted to an organisation (or organisations) approved by the Union Government and the Government of Mozambique. The employees of the approved organisation are licensed by the Government of Mozambique, the licences being valid, renewable annually, and subject to the payment of an annual tax of £100 and the deposit of £100 as guarantee. Natives proceeding to the mines are required to be provided with a passport, for which a fee of 10 shillings is payable and 5 shillings on renewal after twelve months. In addition, in respect of each Native a registration fee of one shilling is paid on original engagement, one shilling on re-engagement, and two shillings per month of employment. It is provided that if the total fees received by the Government of Mozambique in any year from 1929 onward amount to less than 35 shillings multiplied by the average number of Natives employed, the deficiency is to be paid by the mines.

The Government of Mozambique reserves the right to prohibit recruiting or the allotment of Portuguese Natives to any mine if, upon a joint investigation by representatives of the two Governments, the management of the mine or its responsible staff are found to have failed to comply in some substantial respect or persistently after warning with the obligations imposed by the Convention. The representatives in such

a case are to appoint as an umpire a judge chosen in rotation from the Union and from Mozambique.

Recruits rejected as unfit for work on the mines by the medical officer of the Mozambique Government or by medical officers of the recruiting organisation are returned to their home at the expense of the recruiting organisation.

The Convention contains provisions regulating such matters as the length of contract and deferred pay. It also provides that Portuguese Natives in the employment of mines shall, upon the termination of their services, be regarded as prohibited immigrants and therefore subject to compulsory repatriation.

In accordance with the Convention, a Portuguese official is appointed to undertake at Johannesburg the duties of Curator for all Portuguese Natives resident in the Union. These duties include the collection of fees payable in respect of Portuguese Natives, the issue and renewal of passports, the organisation of a deposit and transfer agency for moneys belonging to Portuguese Natives, and generally the supervision of the welfare of Portuguese Natives.

In the event of a dispute as to the interpretation of the Convention which cannot be settled by direct negotiations between the two Governments, it is provided that the question shall be submitted to the arbitration of the Chief Justice of the Supreme Court of South Africa and the Judge-President of the Court of Appeal of Mozambique. If the judges are unable to reach a joint decision, they are to elect an umpire or, failing agreement as to such appointment, the President of the Permanent Court of International Justice is to be requested to make the necessary nomination.

The organisation responsible for the recruiting of Mozambique Natives is the Witwatersrand Native Labour Association, a body set up and maintained by the gold mining companies. Stations have been established throughout the areas open to recruiting so as to allow any Native to reach one of them within twenty-four hours of leaving home. The employees of the Association, who according to recent figures numbered 95 Europeans and 771 Natives, are salaried officials. Their task consists mainly in keeping in close personal touch with the Native population and in supervising their journey to the Rand.

When the recruits reach the local stations, they are fed and forwarded either on foot from station to station or direct by motor transport to one of the Association's main camps. There they are medically examined and, if passed as fit, sent to the Transvaal frontier. On arrival at the frontier they undergo a further medical examination and are then presented to a Portuguese Government official, who rejects any whom he considers to be under eighteen years of age or otherwise unsuitable. They are then provided with clothing at a charge of 20 shillings and sent forward by rail in the care of conductors to the Association's depôts on the Rand, where they are again medically examined before being distributed to the mines.

The increasing extent to which British South African Natives are entering into mining employment has reduced the importance of the Portuguese Native labour contributions to the mining industry of the Union. Although a total employment force of 80,000 Mozambique Natives was permissible under the Convention in 1933, the actual number employed had, in fact, fallen to 49,328 by 31 January 1934 in spite of the increased demand for labour by the gold mines.

The agreement between the Governments of *Portugal* and *Southern Rhodesia* is of a similar though less detailed nature. This agreement was

entered into on 22 July 1925 and permits recruiting within the district of Tete of Native labourers by the Rhodesian Native Labour Bureau. The number of Native labourers from Tete who may be in Rhodesia at any time as a result of such recruiting may not exceed a monthly average of 15,000. The Government of Mozambique reserves the right to prohibit recruiting by, or distribution to, any employer in Rhodesia who upon a joint investigation is found to have failed in some substantial respect or repeatedly after warning to comply with any obligation imposed by the agreement or to any regulation in force in the district of Tete.

The Rhodesian Native Labour Bureau is licensed to recruit Natives on payment of a fee of £100 per annum, and its employees receive individual licences upon the payment of a fee of £10 per licence per annum. The agents licensed in this way are authorised to recruit Native labourers and to despatch them to Southern Rhodesia after attestation by a Portuguese officer. Passport fees of £1 are payable by the Bureau in respect of each attested Native labourer. The passport remains in force for two years and is renewable at a charge of £1 per annum. After the completion of the first twelve months' contract a re-engagement fee at the rate of 6d. per month is imposed. An amount equivalent to the whole of the Native tax collected in Salisbury and to half of such tax collected elsewhere in the colony is also payable to the curator. Should the total of all sums paid in any one year fall short of £4,500, the Government of Southern Rhodesia undertakes to pay the difference.

As in the case of the Convention with the Union of South Africa, the Portuguese Government, under the Southern Rhodesian agreement, maintains a Curator in Southern Rhodesia for the collection of fees, the issue of passports, and the organisation of a deposit and transfer agency for moneys belonging to the Natives.

For *India*, the conditions under which emigration to Ceylon and Malaya has been authorised in accordance with section 10 of the Indian Emigration Act, 1922, as well as to a certain degree the rules under the Act in accordance with which recruiting for the said territories must be carried on, are the outcome of agreements between the Governments concerned.

The conditions are practically the same for the two countries. They bear upon the manner in which workers may be led to emigrate (by recruiting or by assisting non-recruited persons to emigrate), the maximum period for which Indian labourers may be engaged (one month), repatriation, and periodical returns and reports which the Governments of the countries of immigration may be required to furnish in respect of the welfare of emigrants. They further impose on the Ceylon and Malaya Governments the obligation to admit and give all facilities to such agent as the Government of India may appoint for the purpose of safeguarding the interests of emigrants. These conditions were not laid down in a formal convention or treaty, but after they had been agreed upon the Government of India published them in the form of a notification in accordance with section 10 of the Act¹.

Apart from the conditions proper, the Government of India required, in the case of Malaya, various amendments of the labour laws of that country, namely, the repeal of penal sactions for labour offences, the insertion of provisions to compel employers to provide schools for

¹ Notification No. 136 Emigration and No. 137 Emigration, dated 17 February 1923.

labourers' children and for the payment of maternity allowances to female labourers, and the introduction of the principle of a standard wage in the case of Indian workers. The Ceylon Government was requested to enquire into the question of work and wages on estates, child labour on estates, and the repatriation of Indians who are unable through disease or infirmity to maintain themselves or who are thrown out of work and unable to find further employment¹.

As to the rules governing recruiting for Malaya and Ceylon, it was decided that the rules which section 24 of the Indian Emigration Act, 1922, empowers the Governor-General in Council to make with regard to the licensing, supervision and control of recruiting agents, the establishment and control of places provided for the accommodation of the emigrants recruited, the examination of the recruits prior to emigration, etc., should apply to Ceylon and Malaya only with certain modifications. These modifications (special rules) were framed to deal with the *kangany* system of recruiting (recruiting by workers) in vogue for these territories².

Ever since the passing of the Indian Emigration Act, 1922, the authorities of Malaya and Ceylon have kept in close touch with the Indian Government on all matters of emigration. Moreover, the system of recruiting itself is generally based on the principle of collaboration between the Administrations concerned, officials of the funds created in Malaya and Ceylon for the importation of labour, the Indian Immigration Funds, having duties in India, while, as was mentioned above, the Government of India maintains agents in the countries of immigration.

In the *French* possessions in Asia and Oceania the employment of Javanese workers has given rise to inter-governmental agreements. An agreement was concluded in 1889-1900 between the French and Netherlands Governments concerning the recruiting of Javanese coolies for New Caledonia. The French employers in that colony, however, consider that in present circumstances the cost of Javanese labour is too high and they have asked that the conditions of recruiting should be revised. The employment of Javanese labour in Indo-China is governed by an Indo-Chinese Order which was issued after agreement with the Government of the Netherlands Indies.

The recruiting of Tonkinese coolies for Southern Indo-China, as well as for New Caledonia, the New Hebrides and the French Establishments in the Pacific, is covered by the scheme of inter-colonial assistance organised between the Governors of the provinces concerned under the authority of the Governor-General of Indo-China.

In the *Netherlands Indies* the permit to recruit workers for abroad, which may be granted by the Governor-General under section 1 of the Ordinance of 9 January 1887, is subject to detailed conditions, most of which are inserted in the form of stipulations in the contracts of employment drawn up in accordance with a model established by the Governor-General³. This applies, for instance, to clauses concerning the

¹ Administration Report of the Controller of Indian Immigrant Labour in Ceylon for 1923.

² Notification No. 213 Emigration, dated 10 March 1923.

³ When, in 1932 and 1933, contract labour for workers recruited in the Netherlands Indies was abolished in the Federated Malay States and the Straits Settlements, it was agreed between the Governments of the countries concerned that, in future, Javanese engaged for Malaya should be given, before leaving the Netherlands Indies, a document stating the principal conditions of their engagement, but that this document should not be regarded as a

nature and duration of the employment, wages, hours of work, rest days and holidays, medical assistance, housing, repatriation, etc.

If recruiting and engagement are carried out in the name of the Administration of the country of destination, as is always the case for North Borneo and New Caledonia, the negotiations to which the determination of conditions may give rise are naturally entered into with the authorities of that country. On the other hand, if recruiting and engagement are carried out in the name of a private employer, official negotiations take place only in special cases, for instance, if the Governor-General considers that, in the interest of the emigrants, there should be a change in the legislation of the country of employment¹.

The permit to recruit workers for foreign territory is always given for a specified number of workers and for not more than one year, a practice which allows of rapid adjustment of the conditions of the permit to any change in circumstances. The negotiations, if any, do not take place through diplomatic channels but are carried out directly between the Administrations of the countries concerned, or, if need be, through the consuls. They are more or less informal and do not lead to the conclusion of formal agreements.

In *Dutch Guiana* the Administration undertook many years ago the importation of the Javanese labour required by employers, so that the conditions under which the Governor-General grants any recruiting permit must necessarily have been fixed after consultation with the Administration. The permit is granted not for one year only, but until further notice, and the conditions to which it is subject are incorporated in contracts of engagement drawn up in accordance with the model approved by the Governor-General. Any negotiations needed between the Government of the Netherlands Indies and that of Guiana take place through the Ministry for the Colonies at The Hague.

As regards immigrant labour in the Netherlands Indies, this consists solely of Chinese engaged in China or the Straits Settlements, in particular, at Singapore. Recruiting frequently gave rise in the past to negotiations between the consular and diplomatic authorities of the Netherlands in China and the Chinese authorities. It is doubtful, however, whether in this case it is right to speak of agreements between the Administrations for recruiting purposes. Similarly, there would appear to be no agreement concerning the engagement of Chinese in the Straits Settlements.

In the *Spanish Possessions on the Gulf of Guinea* the recruiting of workers in foreign colonies has been the subject of agreements and negotiations between Administrations. An account will be given below (under *Liberia*) of the treaty signed on 22 May 1914 between the Government of Liberia and the Administration of the Spanish Possessions on the Gulf of Guinea, to regulate the recruiting of Liberian workers for Fernando Po.

By a Royal Ordinance No. 275 published on 15 June 1930 in the

contract of employment. According to the most recent information received by the International Labour Office, the Governor-General of the Netherlands Indies has not yet decided on the form of this document.

¹ Among the laws modified in this way at the request of the Netherlands Indian Government, reference may be made to the amendment of the Labour Codes of the Federated Malay States and the Straits Settlements with a view to the abolition of contract labour for workers coming from the Netherlands Indies (1932 and 1933).

Official Bulletin of *Spanish Guinea*, the President of the Council of Ministers (Director-General for Morocco and the Colonies) submitted notes to the Minister of Foreign Affairs to serve as a basis for the conclusion of special agreements with Great Britain and Portugal, concerning the recruiting of agricultural workers (*braceros*) in Nigeria and Angola.

The recruiting in *Liberia* of agricultural workers to be employed in the Spanish colony of Fernando Po was regulated by a treaty signed on 22 May 1914, which authorised the Government of Liberia to appoint a consul at Fernando Po and labour agents at the ports of embarkation, while the Government of the Spanish Possessions on the Gulf of Guinea was authorised to appoint agents for the recruiting of labourers in Liberia. Any recruiting without the authorisation of the Spanish and Liberian authorities was prohibited. The agreement also provided that labourers were to be sent directly to the Liberian consul at Fernando Po and on arrival allotted to employers through the Spanish Curator. Contracts were to be signed in the Curator's office in the presence of the Liberian consul. The Curator was not to permit labourers to be engaged by an insolvent employer without a guarantee from a solvent person. The Liberian consul at Fernando Po was entitled in his capacity as representative of the Liberian labourers to address complaints to the Curator and to appeal to the Governor-General of the colony from the Curator's decisions. He was empowered to inspect undertakings employing Liberian workers and to report to the Curator any defects noted by him. The Government of the Spanish colony guaranteed that the provisions relating to fair treatment in employment would be observed.

This agreement came to an end in 1927 and the Liberian Government, before agreeing to renewal, sought a preferential tariff on its produce in Spain. Meanwhile, however, the plantations at Fernando Po were in serious need of labour and a private agreement was drawn up between the Guinea Agricultural Syndicate and a group of Liberian citizens, who undertook to carry on the business of recruiting agents. Under this private agreement the Syndicate promised to pay the recruiting agents £9 a head for 3,000 labourers, to provide transportation for these labourers and to pay a bonus of £1,000 for each 1,500 boys received. The agreement stated that the recruiting agents were empowered to make advances to the boys to a total of not more than £3 from the £9 payable. This was to be the only sum chargeable to the boys. From the £9 the recruiting agents also paid head money, taxes, recruiting commission and food, i.e. all expenses except passage money to Fernando Po. In practice, it appears that the recruiting agents paid \$4 for head money, \$2.50 for taxes, an arbitrary sum of between 2s. and £1 as advances and the cost of food supplied.

The International Commission¹ which investigated charges of slavery and forced labour in Liberia in 1930 expressed the opinion that while the earlier system of recruiting under Government supervision could be regarded as a serious economic error involving hazards of discomfort, death from disease, and encouragement to slave methods, the private recruiting with such liberal sums paid for each labourer was bound to prove worse. A number of examples were given by the Commission illustrating the abuses which arose. Its general conclusion was that a large proportion of the contract labourers shipped to Fernando Po and French Gabun from the southern counties of Liberia were recruited

¹ LEAGUE OF NATIONS: *Report of the International Commission of Enquiry in Liberia*. Geneva, 1930.

under conditions of criminal compulsion scarcely distinguishable from slave raiding and slave trading. The Commission found that officials of the Liberian Government had given their sanction for the compulsory recruitment of labour, among other purposes for employment abroad, by the aid of the Liberian frontier force, and that they had condoned the utilisation of this force for the conveying of gangs of captured Natives to the coast, where they were guarded until the time of shipment.

Following the enquiry of the International Commission, the Liberian Government passed an Act making it unlawful to recruit or to ship labourers for service at any place beyond the territories of the Republic. The preamble to the Act states that the recruiting of labourers for service overseas under contract has been the cause of many abuses and that in the interest of the national economy it is urgently requisite that such recruiting be prohibited. The Act makes it illegal for any official of the Liberian Government to license or otherwise authorise the recruiting of labourers for service overseas, and for any citizen or resident to enter into contracts for the recruitment of Liberian labourers for service overseas or to act as an agent of any person or persons so contracted. The provisions of the Act do not apply to stevedores or ship labourers engaging for service on mercantile vessels.

For the *Portuguese* colonies the Native Labour Code provides in section 139 that "the entry of a worker into a contract for employment in foreign territory and his embarkation for the territory in question shall not be permitted unless it has been authorised by duly ratified international or inter-colonial Conventions or treaties".

At the present time the conditions of emigration of Portuguese workers to foreign colonies are governed by agreements. A detailed account was given above, in the pages dealing with British territories, of the agreements concluded between Mozambique on the one hand and the Union of South Africa and Southern Rhodesia on the other. Section 138 of the Native Labour Code provides further that "contracts for employment in another Portuguese colony which are not authorised by any agreement shall not be entered into without a permit from the Minister of the Colonies, granted after consultation with the Governor of the colony".

§ 3. — Organisation of the Recruiting of Migrant Workers

Having laid down the general principle that recruiting for employment abroad should be authorised only in virtue of agreements or at least of negotiations between the Administrations of the two territories concerned, the Committee of Experts on Native Labour considered the question whether the general principles of the organisation of recruiting already discussed in previous chapters should be modified for the special case of recruiting for employment abroad. At the beginning of this chapter mention was made of the reasons which have led certain Administrations to issue stricter regulations for this kind of recruiting than for local recruiting. The analysis of certain laws will throw more light on the nature of these regulations.

To take first the bodies through which recruiting is effected, it

will be found that there is less diversity than in the case of local recruiting. For the supervision of recruiting for a foreign territory, the Administrations appear to tend to adopt one of two systems, that of joint bodies set up by the Administrations of the two countries concerned and working in association with the employers demanding labour, or that of employers' organisations working under the supervision of the Administration.

An example of the first system is afforded by the organisations for recruiting Indian labour for *Ceylon* and *Malaya*.

The essential features of the system in force in these territories may be summarised as (1) the financing of recruiting by an immigration fund derived from contributions of the employers requiring labour and administered by a committee on which the Administrations and the employers are represented; (2) supervision by the Administrations of the two territories concerned of the activities of the recruiting agents and the operations of embarking, transporting, landing and distributing the workers.

Employers in need of labour send to India experienced workers (*kanganies*)¹ to bring back with them to the undertaking a few friends and relations from their own or neighbouring villages. For Ceylon, the principle of recruiting has always been based mainly on the family system, the *kangany* originally being the senior member of a family group composed of his personal relatives, to whom may be added workers from other families drawn from neighbouring villages in Southern India. Under the Indian Emigration Rules, 1923, as amended with regard to recruiting for Malaya and Ceylon, a *kangany* must be an Indian of the labouring class who has been employed as a labourer for not less than three months under the employer for whose service he desires to obtain emigrants. No person is allowed to act as a *kangany* unless he is in possession of a valid licence issued by the authority appointed for this purpose by the Malaya and Ceylon Governments. It is only upon completion of certain formalities that the licence becomes valid and that a *kangany* is entitled for a maximum period of one year to engage in a fixed area, usually coinciding with his village, not more than twenty emigrants exclusive of those classified by the Indian Act as dependants and non-emigrants. The *kangany* must supply each intending emigrant with a copy of the official statement of information on conditions of life and work in Malaya and Ceylon, which is printed in English and a vernacular language, and read and explain the contents thereof or cause them to be read and explained. The district magistrate of the district in which the *kangany* is authorised to operate may at any time hold an enquiry as to his fitness for employment as such and, if need be, cancel his licence at the conclusion of the enquiry. For each labourer recruited the *kangany* receives a commission, the maximum of which is officially fixed.

The system of recruiting by *kanganies* described above applies only to the recruiting of unskilled Indian labourers. As regards skilled workers,

¹ Apparently in Ceylon the word *kangany* is used in two senses, those of recruiter and of foreman. Formerly the *kangany* was always a foreman, but owing to the fact that the expression is used by the Indian Emigration Rules for any worker-recruiter, the *kangany* may now be an ordinary worker. The two meanings appear sometimes to have given rise to confusion (*Administration Report of the Controller of Indian Immigrant Labour*, 1929, p. 9). In Malaya, *kangany* has only the meaning of recruiter.

who may, in principle, emigrate without the special authorisation of the Governor-General in Council, they are recruited either by the employers directly or by their agents established in India. Any employer desiring to obtain skilled workers from British India, whether by paying their passages or engaging them on an agreement before they leave India, must apply for permission to the competent Indian authority. In his application he must state the number of persons he is engaging and give various particulars as to the nature of the agreement with the recruits, the conditions of their work and general provisions for their well-being. He must also state the amount of security which he proposes to furnish for the due observance of the agreement with the recruits. The Indian authority may, after such enquiry as may be deemed necessary, grant the permission applied for or, if need be, withhold it.

An example of the second system, that of recruiting organised by an employers' organisation, is given by the Witwatersrand Native Labour Association, which operates in *Portuguese East Africa* under the agreement between the Union of South Africa and the Portuguese Administration described above.

Another example is that of the recruiting of Natives of the *Netherlands Indies* for foreign colonies. Since 1 February 1930, when professional recruiting was abolished, this recruiting is undertaken by two organisations of the *Eigen Werving* (recruiting by employers with the assistance of touts) which procure workers in Java for employment under penal sanctions in the Outer Provinces. One of these organisations, attached to the Syndicate of Planters of South and West Sumatra, has undertaken to engage workers for New Caledonia and Cochin-China. The other (*Algemeen Delisch Emigratie Kantoor*), attached to the planters of the East Coast of Sumatra, has undertaken to do as much for the Straits Settlements, the Federated Malay States, Sarawak, and North Borneo. The latter organisation also undertakes recruiting for Dutch Guiana.

The cases described above appear to be those in which the recruiting of migrant workers is most closely organised and on the largest scale. The situation in other territories may be summarised as follows:

In *British Commonwealth* territories, there are few other examples of recruiting of foreign workers. [Chinese labour for the *Mandated Territory of Nauru* is recruited by an agent of the employers; Chinese labour for the *Mandated Territory of Western Samoa* is recruited by an agent of the Administration; the law in *British Honduras* permits the Administration to engage labourers outside the colony for employment within the colony.

The recruiting of *Chinese* labour for overseas has certain special features. According to a recent description¹, this recruiting, which is practically limited to southern China, is in the hands of recruiting agencies which receive permits under the conditions mentioned in the first section of this chapter. These agencies, which act either as the representatives of specified foreign employers or run an independent recruiting business, maintain coolie or emigration offices in the Chinese ports and work in conjunction with Chinese sub-agencies called "coolie hong", nominally independent but really under their control. The actual recruiting is

¹ Dr. H. MOLSOFF: *Die chinesische Auswanderung*. 1932.

organised by the owners of so-called "passenger shops", a sort of hostels subordinate to the "coolie hongs", to which the recruited workers are directed by agents who scour the country.

Most Chinese workers recruited for employment abroad, however, proceed through the British colony of *Hong Kong*, where all or most of the organisations set up by large-scale foreign employers for the purpose of securing Chinese labour are situated. The actual recruiting takes place on Chinese territory, most of it being done by workers themselves, who return to their villages after the expiration of their contract or on special recruiting journeys. This method has been practised for many years, for instance, for tobacco plantations in Sumatra and tin mines in Billiton (Netherlands Indies).

There are also professional recruiting agencies in *Hong Kong*, the owners of which are often passage brokers and boarding-house keepers. Under the Asiatic Emigration Ordinance, 1915, every person desiring to act as a passage broker must obtain a licence and give security. Similarly, any person who wishes to keep a hotel or boarding-house for "assisted emigrants", i.e. male emigrants departing with assistance in the way of payment of passage money, subsistence or otherwise, in order to offer their labour for hire in some place beyond the limit of the colony, must hold a licence and furnish security.

In the *Spanish Possessions on the Gulf of Guinea*, the Regulations of 1906 laid down the conditions under which private individuals might recruit labour in the Republic of Liberia and neighbouring colonies, and a Decree of 25 September 1928, issued with a view to the recruiting of Chinese labour for the plantations of Fernando Po, entrusted the organisation of this recruiting to the colonial *Curadoria*.

In the *French colonies in Africa*, immigration is nearly always exceptional and individual and no special body has been set up to organise it. In *Madagascar*, however, a Decree of 6 May 1903, which still governs the immigration of workers and will apply if the schemes for the introduction of foreign labour which have been drawn up during the last few years are carried into effect, aims at the setting up of an immigration service with agents and syndicates for "supervising the introduction of immigrants, receiving contracts of engagement and re-engagement; ascertaining the position of immigrants, explaining to them the terms of their contract, and taking any measures needed for their repatriation".

In *Indo-China* recruiting for service abroad is in the hands of private emigration agencies.

Perhaps the most important case of recruiting not subject to administrative supervision is that of the recruiting of Chinese labour for employment in the *Netherlands Indies* by the holders of *panglongs* (small timber-felling, sawing and charcol-making undertakings, etc.)¹. These persons usually apply to "shops", especially in Singapore, that is to say small restaurants usually situated in doubtful quarters where unemployed workers, who as a rule own only the clothing they wear, are boarded and lodged until they find employment: in other words until the owner of the restaurant succeeds in "selling" them. When engaging Chinese workers in a "shop", the employer requires each recruit to sign a statement of indentedness for the board and lodging

¹ G. PASTOR: *De panglongs*, pp. 44-45. Publication No. 3 of the Batavia Labour Bureau, 1927. — *Verslag van de Arbeidsinspectie voor de Buitengewesten*, 1927, p. 168; 1929, p. 115.

received from the owner of the shop and for the cost of recruiting and advances made. In addition, the employer advances the sum of 150 florins which every Chinese immigrant must pay in order to obtain permission to enter the Netherlands Indies. It often happens that employers entice the workers from other *panglongs* by offering them advances exceeding in amount their debts to their own employers. If they accept, the old debts are paid off: the remainder of the advance is often spent in a few days, so that the worker begins his new employment with a larger debt than his old one.

Finally, recruiting for the sugar estates of *Hawaii*, an outlying territory of the United States of America, is undertaken in the *Philippine Islands* by an employers' association, the Hawaiian Sugar Planters' Association.

§ 4. — Administrative Supervision of the Recruiting of Migrant Workers

A consideration of colonial laws shows that they all aim at establishing additional safeguards in the administrative supervision of recruiting operations when the workers are engaged for employment abroad. Thus the Administration takes very strict precautions with regard to the issue of recruiting licences, and requires the recruiter to deposit a larger security for the proper performance of his obligations, or in cases where the payment of a deposit is voluntary for local recruiting, it is made compulsory. Finally, the obligations of the officials responsible for supervising recruiting operations are made stricter and include in particular the duty of ascertaining that the conditions of the contract or of employment comply fully with the terms of the general agreement governing recruiting permits.

In the *Mandated Territory of Ruanda-Urundi*, the departure of the Native is subject to the issue of a passport which depends on the fulfilment of several specific conditions. One of these is that the contract of employment which the Native must hold in order to be able to emigrate is approved by the authority only if it satisfies the conditions laid down in the Ordinance of the Governor of Ruanda-Urundi for contracts for service outside the Territory¹. The passport is issued only subject to the payment of a deposit to an official of the Territory, the maximum of which was fixed by the Ordinance of 20 August 1930 at 1,000 francs per head. Section 6 of the Ordinance provides, further, that an employer applying for a recruiting permit must supply the Governor with any information needed concerning the conditions in which the contract of employment is to be performed. His application will be approved only if he can prove that the country where the contract is to be carried out possesses adequate legislation and organisation for the protection of the rights of the workers engaged.

The laws and regulations in the *British Commonwealth* usually contain more stringent provisions in regard to recruiting for employment abroad.

¹ Decree of 19 July 1926, sections 5 and 6.

These provisions will be considered below, account being taken first of those relating to the issue of licences and the deposit of security ¹, and secondly of those aiming at stricter administrative supervision, in particular in the form of a compulsory written and duly attested contract.

In *Southern Rhodesia*, no person may recruit Natives for employment beyond the Colony unless he is the holder of a special labour agent's licence. For such licence a fee of £50 is charged, as compared with £1 for the licence for local recruiting, and the deposit to be made as security is £250 as compared with £100.

In the *Mandated Territory of Tanganyika*, when the employer party to a foreign contract of service does not reside or carry on business within the Territory, and in any other case where the administrative officer considers it desirable, the employer or his agent may be required to give security for the due performance of the contract in such sums as the administrative officer may consider reasonable. Similar provisions are to be found in the legislation of *Kenya* and *Uganda*.

In *Zanzibar*, an employer desiring to enter into a foreign contract of service is required to deposit Rs. 200 with the Senior Commissioner as a guarantee for the return of the worker.

In *British Somaliland*, a permit must be obtained for the engagement of Native labourers for service outside the Protectorate. In the application for this permit a statement must be made of the place to which it is proposed to take the labourers, the nature of the service, the rates of pay, the period of service, the number of persons proposed to be engaged, and the districts from which it is desired to procure them. Before granting a permit the Consul-General may require the employer to deposit a sum not exceeding the total wages of the labourers for the proposed period of service.

No licences are generally required for recruiting for home employment in the *British West African* dependencies. In the case of employment outside the territory, however, the requirements of the law are strict. In the *Gold Coast*, if any person wishes to obtain for himself or any other person the services of a Native labourer to be performed outside the limits of the Administration, he must apply in writing to the Secretary for Native Affairs, stating the number of labourers required, the place where the labour is to be performed, the nature of the labour, the wages offered and the duration of the proposed contract. The Secretary for Native Affairs may thereupon deliver to the applicant a permit to engage through a licensed agent the number of labourers required or any less number. Subject to appeal to the Governor, the Secretary for Native Affairs may refuse to grant a permit without assigning any reason for such refusal. The particulars of every permit granted are gazetted, and no permit remains in force for longer than three months from the date of issue. No permit to engage labourers under foreign contract in the main to be performed on land may be granted to any person who has not first presented a letter of recommendation from the Government of the territory in which the labourers are to work that he is a fit and proper person to engage such labourers. The names of persons to whom permits are granted and the number of labourers whose engagement has been authorised are communicated to the Administrations of the other British West African territories. Except in the case of labourers engaged

¹ See also § 1 of this chapter.

for the service of the Government of any British colony or protectorate, the Secretary for Native Affairs requires payment by the employer or his agent of security for the payment of the wages of the labourers, of any expense which may arise for their repatriation and for the payment of any fine that may be incurred by the employer or his agent. Provisions in almost identical language for the granting of permits, their validity, letters of recommendation, and security exist in *Gambia, Nigeria* and *Sierra Leone*.

No person may assist or cause a Native to emigrate from the *Seychelles* to any other place unless he is licensed by the Governor as a recruiting agent. A fee of Rs. 250 is charged for each licence, which is valid for one year.

In *British Guiana*, no person may act as an emigration agent unless licensed by the Governor.

In *British Honduras*, an employer hiring or attempting to hire a labourer to work outside the colony is required to enter into a bond of \$50 in respect of each labourer.

In the *British West Indian Dependencies of Jamaica, the Leeward Islands, Grenada, St. Lucia* and *St. Vincent*, a recruiting agent, who is defined as a person employed to engage labourers to proceed under contract of service to a foreign territory for which recruiting is permitted, is required to be licensed or registered. In *Jamaica*, a fee of £5 is charged on application, and the inspector-general of police registers the agent on the production of satisfactory evidence to show that the agent is duly authorised by some person or persons to bind him or them by his contract of service, and on the applicant entering into a bond with two sureties in the sum of £500 for the observance by the employer of the terms of the contract. The Governor may in his discretion at any time cancel the registration of any person as a recruiting agent. The registration of agents is valid for twelve months. Every recruiting agent is required to pay 25s. in respect of every person engaged by him. In *Grenada, St. Lucia* and *St. Vincent* the fees are £5 and 10s. per head and the guarantee, as in the *Leeward Islands*, 25s. per head. In these colonies the laws provide, as in *Jamaica*, for a twelve-monthly validity of registration, and for the discretionary powers of the Governor to cancel registration.

In *Trinidad*, an employer or his agent desiring to engage any person for labour in a foreign country is required to enter into a bond for £500 for the observance of the provisions of the law and the terms of the contract, and to meet any damage and costs which may be recovered by the labourer for any breach of the contract.

In the *Bahamas*, an employer engaging labour for a foreign country must furnish such guarantee as the Governor may require for the due performance of the contract, and the agent is jointly and severally liable with the employer to perform all the terms of the contract.

In the *British Solomon Islands Protectorate*, no labourer may be recruited or removed from the Protectorate for employment beyond the Protectorate unless the person concerned has obtained a permit from the Resident Commissioner or authorised officer. Before granting a permit the officer may require such security as he thinks fit that the applicant will observe the conditions of the permit.

In the *Gilbert and Ellice Islands*, no Native may be taken beyond the limits of the Protectorate except with the written permission of the Resident Commissioner.

The second group of provisions is that in which a written and attested contract is compulsory if the employer or his agent recruits Natives for

work outside the territory in question, or outside British territory, or in certain specified territory.

In *Southern Rhodesia*, where all recruitment for employment outside the colony is subject to the granting of a special labour agent's licence, every labour agent engaging or procuring Natives for employment outside Southern Rhodesia is required to enter into a written contract, which is registered at the office of the magistrate of the district. The magistrate is required to satisfy himself that the terms of the employment have been fully understood by the Native, and, if so satisfied, to enter in a book the particulars of the contract.

All foreign contracts of service are required to be in writing, approved and attested in *Northern Rhodesia*, where certain contracts for employment within the territory (e.g. thirty-day contracts) may be oral.

In the *Mandated Territory of Tanganyika*, foreign contracts of service are not binding on the servant unless in writing and approved and attested by a competent officer. Similar provisions exist in *Kenya*, *Uganda*, *Zanzibar* and *British Somaliland*.

In the British West African Dependencies of *Gambia*, *Gold Coast*, *Nigeria* and *Sierra Leone*, where the obligation to enter into attested contracts for home service is exceptional, the attestation and registration of foreign contracts of service is compulsory.

In *Gambia*, *Gold Coast* and *Sierra Leone*, the attesting officer certifies that the parties "fully understand the nature and terms of the said contract, and entered into the same voluntarily and of their own free will".

In *Nigeria*, the phrase employed is that the contract was read over and explained in the attesting officer's presence, "to all the parties thereto who are illiterates, and was entered into by them voluntarily, and with full understanding of its meaning and effect". No Native of Nigeria may leave Nigeria to serve as a labourer beyond the territory unless, if ordinarily resident within the jurisdiction of a Native authority, he has first obtained the consent of that authority, certified by an administrative officer, or if not ordinarily resident within such jurisdiction, a certificate from an administrative officer. No certificate may be granted unless the administrative officer is reasonably satisfied that the applicant, in addition to being physically fit and above the age of sixteen, is not abandoning relatives dependent upon him for maintenance, but has made due provision for their maintenance, and that his absence from Nigeria is not inconsistent with engagements into which he has previously entered, or with obligations imposed by law, Native customs or usage. Similar provisions exist in *Gambia* and *Sierra Leone*.

In the *Leeward Islands*, the recruiting agent is required to enter into a contract of service in a prescribed form with every person recruited by him. The contract is executed in the presence of the senior police officer or any other person appointed by the Governor, in triplicate, one copy being kept by the recruiting agent, one by the person recruited, and one by the attesting officer. Similar provisions exist in the *Bahamas*, *Barbados*, *Grenada*, *St. Lucia*, *St. Vincent* and *Trinidad*.

In *Jamaica*, no person recruited may be granted a permit to proceed to a territory for which recruiting is permitted unless a contract has been entered into, the form and substance of which has been approved by the Governor.

The prescribed form of contract in *British Honduras* states that agreements with labourers to work outside the Colony must be attested before the District Commissioner or a person appointed for that purpose.

In *Mauritius*, administrative supervision is secured by the fact that before leaving the Colony a labourer engaged or assisted to emigrate must sign an agreement with his employer before the competent authority. This authority makes sure that the agreement is in conformity with the recruiting permit granted by the Governor, and endorses on the permit the name of each emigrant engaged in virtue thereof. Similarly, in *Ceylon* and *Fiji*, supervision is secured when the compulsory contract of employment is concluded.

In *Sarawak*, under the Netherlands Indian Labourers' Protection Order of 1927, every labourer imported from the Netherlands Indies in order to be employed under a contract of service must be brought before the Protector of Netherlands Indian Labourers within fourteen days from his arrival.

As regards Chinese labour recruited for abroad, the Chinese Labour Recruiting Agency Regulations of 1918 provided that the assembling and departure of recruited labourers must be reported to the local emigration sub-bureau, or representatives of the head bureau, so that officials might be sent for supervision.

In *Hong Kong*, Chinese emigrants must be brought by the passage broker or the boarding-house keeper before the competent official, who must ascertain that the workers understand the meaning of the passage ticket issued to them and where they are going, and that they are not acting under compulsion or being influenced to emigrate by false representations. If an emigrant who is unwilling to leave appears to have been obtained by force or other improper means, the competent authority may procure him a passage back to his native place or to that from which he was taken. In the case of "assisted emigrants", the official must be supplied with two copies of the photograph of every emigrant, and with all data necessary for their identification and regarding their destination, occupation, etc. Before the examination of assisted emigrants by the competent official, the hotel or boarding-house keeper must supply him with all the necessary particulars at least twenty-four hours in advance.

Chinese workers wishing to leave the *Straits Settlements* for employment abroad, who on arrival in the colony were indebted for passage money and advances, must appear before the Protector of Chinese before leaving the Colony. The Protector ascertains whether the contract or agreement entered into is valid according to the law of the place where it is to be performed, whether the worker is willing to be bound by the terms thereof, and whether emigration is permitted to the place where he is to be employed. If not, he releases the worker from any restraint to which he may be subjected.

Chinese immigrants in *British Malaya* may be landed only at certain specified ports, where they are examined by specially appointed Protectors of Chinese with regard to the payment of passage money, monetary advances, engagements to repay debts or to undertake labour, age and fitness for labour, and any other matters necessary for the protection of labour or of women and girls. Immigrants to whom money has been advanced for the payment of their passage or other expenses are in particular under the protection of the authorities. If it appears that such an immigrant has been induced to travel by fraud or misrepresentation as to work, wages or other matters, the Protector may repatriate him at the expense of his creditor. The same applies if an indebted immigrant appears to be under the age of sixteen or over the age of forty-five years. Should an indebted immigrant be found to have obtained assistance by promise to enter into a contract of employment on his arrival, he may, at the discretion of the Protector, be sent back to China at the expense of his creditor, or released from his obligations.

The recruiting of unskilled workers in *India* for *Malaya* and *Ceylon* is subject to administrative supervision in the following conditions:

The names of the emigrants recruited must be filled in on the back of the *kangany's* licence, and each intending emigrant has to be produced before the village *munsif* or headman. The *munsif* ascertains whether the family of the candidate in question has any objection to his departure, and whether the emigrant himself is aware of the conditions attached to his emigration. If satisfied, the *munsif* affixes his signature against the entry of the intending emigrant's name. After such certification, the recruits, if bound for *Malaya*, are directly conducted by the recruiter to the port of embarkation (*Madras* or *Negapatam*).

In the case of emigrants for *Ceylon*, the procedure is somewhat different, the recruits being first passed on to one of the agencies of the *Ceylon* emigration authorities in *South India*, where an enquiry is made into the regularity of the recruiting, the conditions of work are explained to the emigrants, and obviously unfit or unsuitable recruits are rejected. When this agency is situated on the further side of *Trichinopoly*, the recruits are despatched to the latter place, where another examination is held. They are then sent to the quarantine camp at *Madapam*, near the port of *Danushkodi*. The fact that the recruiting agencies are all established near villages makes it easier to prevent irregularities and reject ineligible recruits from the outset, who are sent back to their villages without incurring the hardship of a long journey.

In the depots at or near the ports of embarkation, where they have to stay for at least three days before being allowed to embark, the recruits, both for *Malaya* and for *Ceylon*, undergo a final examination, which this time is held by an official acting on behalf of the Government of *India*, the Protector of Emigrants. The Protector sees that the requisite documents have been properly prepared, that all emigrants have been duly recruited in accordance with the regulations, and that they all understand the conditions under which they are emigrating and the nature of the work to which they are going.

The above provisions apply to unskilled workers emigrating from *India*. Skilled workers have to be brought by the employer or his agent before the Protector of Emigrants at the port of embarkation, who ascertains that a permit to engage or assist recruits has been duly obtained, and that its terms and conditions have been complied with.

The provisions concerning the administrative supervision of migrant workers in *French* territories are as follows:

In the *Mandated Territory of the Cameroons*, Natives may not leave the territory without a personal permit issued by the High Commissioner of the Republic or the chief of the district. The issue of the permit is conditional on the payment of a deposit, the amount of which is fixed in each case by the High Commissioner, and which is repayable on the return of the emigrant.

In *French West Africa*, under the Decree of 24 April 1928, Natives may not leave the Colony unless they hold an identity card issued by the local administration. Those who are not French citizens must, in addition, have an emigration permit issued by the Lieutenant-Governor or his deputy. The grant of an emigration permit may be made conditional on deposit of the sum needed for the applicant's repatriation with the local administration. Further, the consent of the administration is necessary before operations can be undertaken in one colony of *French West Africa* for engaging workers and transporting them to foreign territory or another Colony of the group. Persons who have

obtained such consent may be required to deposit security to an amount and under conditions of payment and repayment determined by the Lieutenant-Governor.

In *Madagascar*, under the Decree of 6 May 1903, any person wishing to introduce immigrants must pay a deposit as security for the proper performance of the engagement and repatriation of the workers.

In *Indo-China*, applications for recruiting permits must supply the necessary particulars to enable the Administration to decide. They are transmitted by the head of the Administration of the country of origin with his recommendation and assurance that all the measures called for under the regulations have been taken for the reception of the recruits. Agreements drawn up in accordance with a model contract approved by the Administration are entered into, in Annam, before the competent Resident-General and, in Tonking, at Haiphong under the supervision of the Labour Emigration Division. The contract is prepared in duplicate in French and a vernacular language, and contains, in addition to a series of clauses, the photograph, fingerprints, and evidence of the identity of the worker. One copy is given to the latter in the form of a workbook, and the other to his employer. At the same time, identity cards are prepared by the Emigration Department of the country of origin and the Immigration Department of the country of destination. The worker is also provided with the special card for contract workers. All the necessary measures are taken to secure that he is fully acquainted with the terms of his contract ¹.

In the *Netherlands Indies*, workers recruited for foreign territory must, before leaving the territory, be presented twice to an administrative official with a view to ensuring that recruiting has been carried out under regular conditions and that a contract of engagement has been concluded. Javanese recruited for *Malaya* must receive before leaving a document stating the principal conditions of their engagement, but this document may not be regarded as a contract of employment.

As regards the administrative supervision of workers introduced into the *Netherlands Indies* as immigrants, there are no provisions under *Netherlands Indian law*. If, however, they are intended for employment under penal sanctions, as at Banka and Billiton, contracts of engagement must be concluded before an official of the Labour Inspectorate or the head of the local administration, which thus allows of a certain measure of *post factum* supervision. The official in question must refuse to approve the contract if he suspects a case of compulsion, error or fraud. Further, if workers recruited in China emigrate via Hong Kong, as is usually the case, they are subject to supervision by the authorities of that territory, exercised under the emigration regulations. The irregularities that frequently accompany the engagement of workers for the *panglongs* has given rise to specially strict supervision by the officials of the immigration service employed in the province of the East Coast of Sumatra and Riau and Dependencies, where most of these undertakings are situated. If necessary, these officials give instructions to the immigrants applying to them for permission to enter the country and refuse admission to persons who appear to have been deluded or are too young or infirm for work in the *panglongs*.

For the *Portuguese Colonies* the Native Labour Code provides, in section 122, that whenever the work is to be performed outside the area of the recruiting agency, contracts must invariably be drawn up with

¹ Order of 25 October 1927.

the co-operation of the authorities. These authorities must ascertain that the clauses of the contract are not contrary to the provisions of the Code (section 120). The original of the contract must be delivered at the Office of the Curator of the colony where it was drawn up, and is sent, with the worker under contract, to the Colony of destination (section 143).

§ 5. — Medical Protection of Migrant Workers

In the case of workers recruited for employment abroad, the law nearly always provides that the medical examination on which their selection is based must take place before they leave their territory of origin. In many cases it is the law or practice that they should also be medically examined on arrival at the place of destination. The following examples of legislation may be given:

In the *Mandated Territory of Ruanda-Urundi*, the emigration legislation provides that all recruited workers, before being taken outside the Territory, must undergo medical preparation for not less than 21 days, covering the various inoculations; this provision also applies to members of their family authorised to accompany them. During this period of medical preparation, the recruits are entitled to an allowance equal to half the wages fixed by their contract¹.

In the following territories of the British Commonwealth: the *Mandated Territory of Tanganyika*, *Gambia*, *Gold Coast*, *Nigeria* and *Sierra Leone*, the law requires that workers engaged for employment abroad must hold a certificate of medical fitness. In *Mauritius*, emigrant workers must undergo medical examination before embarking.

Natives recruited under the *Mozambique Convention* for service in the *Union of South Africa* are medically examined, first at the main Witwatersrand Native Labour Association camp which the Native has joined, then at the frontier, and finally on arrival at the Rand.

Workers recruited in *China* who leave via Hong Kong as assisted emigrants must be medically inspected on shore before embarkation, as well as on board ship after embarkation, unless such double inspection is dispensed with by the sanction of the Governor of Hong Kong.

In practice Chinese workers leaving Hong Kong for the *Netherlands Indies* (Banka and Billiton) are again examined on arriving at the place of work. Workers recruited for the *panglons* are not examined.

The medical examination of assisted Chinese emigrants on arrival in *Malaya* appears to be left to the discretion of the Protector of Chinese.

Workers emigrating from *India* to *Malaya* or *Ceylon* are first examined in the depots at or near the port of embarkation as to their fitness to undertake the voyage, and, when necessary, they are vaccinated or treated for ankylostomiasis. The rejected emigrants are returned to their homes at the cost of the Immigration Fund. Labourers for *Malaya* are again examined on arrival at the port of disembarkation, and, if found unfit, are detained in hospital or sent back to India. Those proceeding to *Ceylon* would not appear to undergo a second examination

¹ Ordinance of 20 August 1930, No. 28.

on arrival in that country. The reason is, probably, that in most cases they arrive at the estate within thirty-six hours of their departure from India, and that in the depot near the place of embarkation they pass six days' quarantine, as prescribed by the Ceylon Quarantine Regulations, during which period they are medically inspected by the Ceylon Quarantine Medical Officer.

For the *French Colonies*, a Ministerial Circular of 4 October 1924, applicable to all the Colonies, laid down measures for the protection of the health of Native workers engaged for employment abroad. Whenever workers are recruited for such employment, they must undergo inspection by a French medical officer in order to ascertain that they are healthy, robust, not too young or too old, and fit for the work to be required of them. In consequence of this inspection, a numbered certificate is issued, which takes the place of an identity card. The worker must be supplied by the employer with clothing and a blanket as prescribed by the regulations. *He must have been inoculated* in accordance with the instructions of the health service. Groups of workers travelling to the meeting place fixed for engagement and embarkation must be accompanied, at the expense of the employer, by a French doctor if they number over 600, by a Native doctor if they number from 200 to 600, and by a male nurse if they are under 200 in number. During the period of assemblage at the port of embarkation, which must begin not less than eight days before departure, the employer must provide, at his own cost and under the supervision of the local health service, for (1) an examination with a view to ascertaining definitely the fitness of the recruit, who, if found unfit, is sent back; (2) any inoculations not yet effected; (3) delousing and disinfecting operations. Further, a doctor must make a final examination for the elimination of any contagious, sick, unfit or unvaccinated persons who may have evaded observation. He also inspects the accommodation provided for the workers at the port, and ascertains that they meet the requirements of hygiene.

In the particular case of workers emigrating from *Indo-China* or leaving Tonking for South Indo-China the law¹ makes the following provisions: Before the drawing up of the contract, the recruit undergoes a medical examination entitled "recruiting medical examination" at the chief town of his province of origin, and is inoculated as prescribed by the regulations. A fee is charged for this examination, which is paid by the recruiter. At the port of embarkation the recruits are isolated in a special camp, where they undergo a secondary medical examination entailing a careful checking of the recruiting medical examination. This is followed by a repetition of any inoculations considered necessary. The secondary examination is free of charge. For convoys of workers destined for places outside Indo-China, who therefore have a long voyage before them, the period of observation at the port of embarkation is somewhat longer, and a public health inspection free of charge is carried out at the time of embarkation.

Workers from the *Netherlands Indies* emigrating to foreign territory must undergo medical examination and the prescribed inoculations before leaving Java. Under the provisions in force in *New Caledonia*, *Indo-China*, the *Federated Malay States*, *Straits Settlements*, and *Sarawak*, a second medical examination takes place on arrival. In *North Borneo*, it

¹ Order of 25 October 1927.

is left to the discretion of the official to whom the workers are presented on arrival to decide whether there shall be a second medical examination. Workers recruited for *Dutch Guiana* are medically examined before embarking, and inoculated as prescribed; on arrival, they are again examined.

For the *Portuguese Colonies* the Native Labour Code provides, in section 99 (1), that the Curator and his agents shall refuse to co-operate in the drawing up of contracts, or to ratify those drawn up, without their co-operation in cases where the unfitness of the Natives for work is manifest. Section 263 provides that the recruiting agents or employers are responsible for medical inspections to ascertain the fitness of the Natives for work. The Curator or his agents, when drawing up contracts, may enforce such inspections, subject to their being made free of charge by the public medical officers.

Workers engaged in the *Philippine Islands* by the *Hawaiian Sugar Planters' Association* are examined both when leaving the islands and on arrival in Honolulu. As they are originally selected mainly on physical grounds, are subject on embarkation to the customary medical inspection, and on arrival are examined by the Hawaiian Public Health Service, they have in fact to pass five examinations of varying strictness.

§ 6. — Other Measures for the Protection of Migrant Workers

The measures taken for the protection of recruited workers in regard to monetary advances, travelling expenses, maintenance during the journey and conditions of the journey, which were summarised in Chapter VI, usually apply to workers recruited for employment abroad as well as to those recruited for inland employment. Since, however, migrant workers often have to make long journeys by land or sea to reach their workplace, the administrative authorities have found it necessary to take special measures for their protection, especially as regards the conditions of transport. The supplementary provisions contained in certain laws concerning the regulation of transport expenses, rations, transport by sea or inland waterways and conveying are discussed below.

The transportation of workers emigrating from the *Mandated Territory of Ruanda-Urundi* is subject to very detailed regulation under the Ordinance of 18 June 1930. In particular it is provided that the workers must be accompanied by a convoyer if the caravan includes not less than twenty-five recruits. If there are as many as 250 Natives, the observance of the law must be supervised by European convoyers.

In the territories of the *British Commonwealth*, with the important exception of southern Africa, it is generally provided that the cost of transport or of rations for the journey of recruited workers shall be borne by the recruiter or employer. For migrant workers the legislation is sometimes even stricter, as will appear from the following examples:

In *Northern Rhodesia*, the foreign contract of service prescribed by law differs from the home contract by the addition of an undertaking

made by the employer to provide the servant with sufficient means, including food, for proceeding to the place of employment and for returning if he desires to do so at the termination of the contract.

In the *Mandated Territory of Tanganyika*, the prescribed foreign contract of service lays down that the employer shall provide free transport by rail and steamer for every servant from and to his home where possible, and that half-pay and rations shall be given from the date of recruiting until the date of departure from the territory, and full pay thereafter. Servants, if they so desire, may be accompanied by their wives, who shall be given free transport.

In *Zanzibar*, the law makes it compulsory for the employer to provide any servant engaged under foreign contract of service with a free passage to his destination and with rations during the voyage.

The prescribed forms of foreign contracts in *Gambia*, *Gold Coast*, *Nigeria* and *Sierra Leone* provide that the employer agrees to convey the worker free of cost, whether for transport or maintenance, to the place of employment.

In the *Bahamas*, it is provided that there shall be implied in every contract that the labourer shall be provided with free board and lodging from the date of execution of the contract, and with a free passage to the place to which he is proceeding.

The Overseas Workers' Agreement by which workers are imported under contract into the *Mandated Territory of Nauru* states that the commissioners should provide a free passage for the workers. In the *Mandated Territory of Western Samoa*, the law lays down that Chinese labourers shall receive a free passage.

In the case of workers recruited in *India* for *Ceylon* and *Malaya*, the expenses of recruiting, transport, subsistence and accommodation are defrayed from the Indian Immigration Fund established in each of these territories. The same fund also defrays the expenses of repatriation of recruits who have been found by medical examination to be unfit for employment. No Indian labourer may be held to be liable for the amount of any advance made to him prior to his arrival in *Malaya* in consideration of his engagement to work there. Similarly, in *Ceylon* no payment made by any recruiter to any emigrant from *India* to enable him to pay off any debt before emigrating is recoverable in any court in the colony.

As regards the subsistence of workers recruited in *India* for *Ceylon* and *Malaya*, the Indian Emigration Rules, 1923, require the emigrants to be provided free of charge throughout the journey to the port of embarkation with proper and sufficient food and lodging. In practice, the labourer and his dependants are supplied with both during the whole of the journey to the estate. In *Ceylon* labourers proceeding for the first time to up-country estates are generally supplied with a blanket (*cumbly*) and, if need be, clothes.

The Indian Emigration Rules, 1923, contain very detailed provisions concerning the accommodation of Indian emigrants proceeding to *Ceylon* and *Malaya* in the ports of embarkation. The voyage to *Malaya*, which takes from five to ten days, is generally made on board vessels specially constructed for immigrant traffic. Supervision is entrusted to the travelling immigrant inspectors of the Labour Department of *Malaya*. Further, the workers must be accompanied throughout the journey by a *kangany* or a competent person appointed for the purpose by the immigration authorities representing *Malay* and *Ceylon* in *India*.

In the case of *Chinese* labourers emigrating to *Malaya*, the Protector of Chinese fixes the maximum sum for which any immigrant may be indebted for passage money and advances. Conditions of transport are governed by the laws of the different Malayan States. The ships must be properly equipped and the accommodation, sanitary arrangements and food supply must be satisfactory. Any ship carrying more than twenty immigrants must carry a qualified medical practitioner.

For Chinese leaving via *Hong Kong*, the Asiatic Emigration Ordinance, 1915, contains detailed provisions relating to the equipment of emigrant ships when on a voyage of more than seven days' duration, the accommodation of emigrants on board, their treatment at sea, etc.

Chinese workers recruited for the important undertakings in the Outer Provinces of the *Netherlands Indies*, who sign a contract subject to penal sanctions for a period of one or two years, are transported at the expense of the employer. On the other hand, workers recruited for the *panglongs* are charged the cost of recruiting and transport. The transport from small towns on the Chinese coast up to *Hong Kong* is effected in junks and small steamships or motor ships, that from Swatow to *Hong Kong* in coasting ships and sailing ships. The voyage from *Hong Kong* to the *Netherlands Indies* is usually made in ships flying the *Netherlands* flag and subject to *Netherlands* Indian regulations.

The transport of *Indo-Chinese* workers from Tonking to South Indo-China or the French Establishments in the Pacific has given rise to interesting regulations. A standing inspection committee supervises the ships which carry groups of workers. The Labour Emigration Division set up at Haiphong is responsible, under the authority of the Resident Mayor and the supervision of the Tonking Labour Inspector, for the application of the regulations concerning the emigration of Tonkinese workers, the supervision of the conditions of their transport on board ship, and the measures concerning the reception of those returning to Tonking. He must make a brief report to the Resident-General in Tonking on each convoy of emigrants embarked and returned.

When Natives of the *Netherlands Indies* are recruited for employment under contract in New Caledonia, Indo-China or Sarawak, the cost of transporting them and their dependants is met by the employer. This principle ceased to apply in the Federated Malay States and the Straits Settlements when contract labour was abolished for *Netherlands* Indian workers in 1932 and 1933. It is provided, however, that in these territories no worker shall be deemed to be in debt to his employer for a sum exceeding \$20 in respect of advances, travelling expenses or other payments made before his arrival. Further, this debt is considered to be settled as soon as he has completed four months' service with the employer who recruited him. Similar regulations have been proposed for North Borneo since the abolition of contract labour.

The transport of *Netherlands* Indian workers by sea to foreign territory is governed by *Netherlands* Indian legislation. In certain cases (recruiting for North Borneo, New Caledonia and Indo-China) it is compulsory to use ships flying the *Netherlands* flag, so as to facilitate supervision of the conditions of transport. If necessary, a specified route is prescribed in the interests of the emigrants. Thus, the journey to North Borneo and back must be made directly without calling at Singapore, so as to prevent the emigrants from being engaged by persons of doubtful reputation in that port. Sometimes it is provided that if the number of emigrants exceeds a certain minimum fixed by the Government, they must be accompanied by a qualified medical practitioner.

In the case of recruiting for *Dutch Guiana*, the model long-term contract drawn up by the Governor-General of the Netherlands Indies provides that the cost of transporting the worker and his dependants shall be met by the Guiana Administration. The equipment of the workers for the voyage, the fitting up of the ships, inspection, precautions to be taken before departure, food supply, medical assistance and conveying are subject to very detailed regulation.

The *Portuguese Labour Code* provides in Sections 178 et seq. in great detail for the transport of Native workers by sea. The transport by sea of any number of workers exceeding ten may be effected exclusively in passenger vessels with comfortable and hygienic accomodation suitable for transport, which is sufficient for the number of workers to be carried. The shipping companies, shipowners and their agents, and masters of ships licensed to carry Native workers are under an obligation to carry out the supervision of the Code and assume the liabilities involved. Under section 193 the Code provides that a Government commissioner appointed for the purpose by the Governor of the colony of embarkation shall accompany the workers if more than ten are travelling by sea under contract to another colony or returning to the colony where they were engaged under contract.

Finally, in the case of workers recruited in the *Philippine Islands* for employment in *Hawaii*, the Hawaiian Sugar Planters' Association provides them with clothing and a blanket. The conditions on board ship are governed by an agreement between the Association and the shipping company concerned.

In addition to this summary of the provisions of the law and practice in the different countries in regard to the protection of migrant workers during the journey, mention should be made of the international Convention concerning the simplification of the inspection of emigrants on board ship, adopted by the International Labour Conference in 1926. This Convention, which does not impose an obligation on the States ratifying it to create a system of official inspection of emigrant ships, aims at the general acceptance of the principle that where official inspection exists it should be carried out by not more than one Government on any particular ship. The Convention also seeks to define exactly the functions and powers of the inspectors. In particular, the inspector should not be connected with the shipowner or shipping company. He must watch over the observance of the laws, regulations and agreements, and the terms of the contracts directly affecting the protection and welfare of emigrants on board ship. This Convention has been ratified by the following States Members which are directly interested in Native labour questions: Australia, Belgium, India, Japan and the Netherlands. It is supplemented by a Recommendation concerning the protection of emigrant women and girls on board ship. Hitherto, however, the Convention has not been applied in the cases of the transport of the migrant workers with which this chapter deals.

§ 7. — Recommendations of the Committee of Experts on Native Labour

The text of the principles adopted by the Committee of Experts reproduced below will show that the Committee attached primary

importance, as a basis for any international regulations on the recruiting of migrant workers, to the idea of the widespread adoption of the system of agreements between the Administrations concerned. One of the most important aspects of this system is that it enables the Administrations of the recruiting countries to lay down, if necessary, the conditions under which their nationals may be recruited and employed. It also enables the two Administrations concerned to define the form of their collaboration for the protection of the workers and for securing the observance of laws and regulations. In this respect, without directly referring to the matter, the Committee had in mind the appointment of protectors of migrants such as are to be found in several countries.

It was shown in Chapter IV that the Committee of Experts, accepting the almost unanimous opinion of Administrations and authorised observers, rejected in general terms the idea of the official organisation of recruiting. It did not consider, however, that an equally categorical pronouncement could be made in the case of migrant workers. In recommending that recruiting for abroad should be entrusted to organisations whose rules have been approved by the competent authorities, it referred to organisations with which the Administrations collaborate, such as the Indian Immigration Funds of Malaya and Ceylon, as well as to important employers' recruiting organisations, such as the South African associations. Further, in cases where recruiting is on a smaller scale and does not call for a complex organisation, the Committee agreed that it could be undertaken by private agents licensed to recruit by the competent authorities of the territory of recruiting.

On the ground that administrative supervision should be strengthened in the case of migrant workers, the Committee held that the provisions described in Chapter VI should be supplemented by supervision on departure from the territory of recruiting. The present practice in several territories, as appears from § 4 of this chapter, includes also supervision on arrival in the territory of employment.

The Committee attached great importance to the medical inspection of migrant workers. In addition to the measures to be taken before the worker's departure, it considered it necessary to have a medical examination on arrival whenever the journey involves a voyage by sea or inland waterway of a minimum duration. It added that this provision should also apply to workers recruited for employment in a distant territory under the same Administration.

Finally, the Committee of Experts considered what measures were needed to ensure that the worker's journey by sea or inland waterway should be carried out under satisfactory conditions. It held that the authorities concerned should agree as to which of them should be responsible for the protection of the workers during the voyage. This protection should cover the equipment of emigrant ships and the organisation of medical assistance and welfare on board. Finally, the Committee suggested that the workers should be placed in charge of a responsible person during the voyage, a principle which, in fact, merely reaffirms that previously laid down by the Committee in regard to any long-distance displacement of groups of recruited workers.

The principles adopted by the Committee of Experts on Native Labour are as follows:

G. — ADDITIONAL PROVISIONS FOR MIGRANT WORKERS

The recruiting of workers in one territory for employment in a territory under a different administration should be regulated in accordance with the following provisions:

(1) *Such recruiting should only be permitted under conditions stipulated in agreements between the competent authorities of the territories concerned. In so far as the necessary provisions are not already contained in the law or regulations of the territory of recruiting or of destination, as the case may be, such agreements should stipulate, inter alia, the extent to which the recruiting is to be permitted and the circumstances in which it may be wholly or partly suspended, the conditions under which the recruiting is to be permitted (e.g. the organisation and supervision of recruiting, the measures for the protection of the workers during the journey to and from the place of work, the minimum standard conditions of work, whether the workers may be accompanied by their families, workmen's compensation, the nature and length of the employment, repatriation, medical organisation, etc.); and the extent and methods of co-operation between the competent authorities concerned in supervising the execution of the agreement and of the conditions of recruiting and employment.*

(2) *Such recruiting should only be permitted to be undertaken by organisations whose rules have been approved by the competent authorities of both territories, or by recruiting agents who have been licensed to recruit by the competent authorities of the territory of recruiting.*

(3) *A representative of the competent authority at the place of departure should satisfy himself, before authorising the departure of the recruited worker, that the conditions laid down in the law or regulations of the territory of recruiting or in the agreement under which recruiting for such employment is permitted have been complied with.*

(4) *Such recruited workers should always be medically examined in the territory of recruiting and all necessary measures should be taken, immediately before they leave the territory of recruiting, to ensure that they are physically fit and that they have undergone the prescribed inoculations. When the journey to the territory of employment involves a voyage by sea*

or inland waterway of a minimum duration to be determined by the competent authorities concerned, the workers should be medically examined again on their arrival in the territory of employment.

This provision should also apply to workers recruited for employment in a distant territory under the same administration.

(5) When the journey of such recruited workers involves a voyage by sea or inland waterway of a minimum duration to be determined by the competent authorities concerned, the law or regulations or the agreements should prescribe:

- (a) which administration is responsible for the protection of the workers during the voyage;*
 - (b) the measures to be taken to ensure that the vessels used are suitably adapted for such transport;*
 - (c) that the workers are placed in the charge of a responsible person; and*
 - (d) that all necessary arrangements are made for the medical care, and in general for the welfare, of the workers during the voyage.*
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CHAPTER VIII

REPLACEMENT OF RECRUITING

At the beginning of the principles concerning recruiting adopted by the Committee of Experts on Native Labour is a paragraph in which the Committee expressed the opinion "that the final object to be attained is the obtaining of workers by the spontaneous offer of labour" and the hope "that the recruiting of labour will be progressively rendered unnecessary". The Committee was led to insert this paragraph by the consideration that, however much the organisation and regulation of recruiting might be perfected, there will always be loopholes for abuses. Moreover, the method of obtaining labour by recruiting is only a makeshift, and in the interest of both employers and workers it is desirable that it should be replaced by the free offer of labour.

As a means of accelerating progress towards the replacement of recruiting by the spontaneous offer of labour, the Committee advocated such measures as the improvement of conditions of labour, the development of means of communication, and the creation of institutions for facilitating, and if necessary controlling, the voluntary movement of labour to areas where it is in demand. The importance of good conditions of labour and means of communication for stimulating and facilitating the spontaneous movement of labour is obvious; there is no need to comment on it here, and in any case these questions fall outside the scope of the Report. Consequently, this chapter will only discuss the measures taken or contemplated in various territories for replacing recruiting by methods intended to facilitate and organise the spontaneous offer of labour.

§ 1. — Replacement of Recruiting in Various Territories

The discussions and experiments in regard to the replacement of recruiting, with which this section is concerned, are in reality confined to the organisation of placing services and the setting up by the Administration or employers, or both, of institutions for

facilitating and organising migration movements either within a territory or to foreign territory.

The establishment of a system of labour exchanges for obtaining the Native labour required by the gold mines in the *Union of South Africa* was reported on by the Mining Industry Board in 1922 in the following terms:

"88. . . . the operations of the Native Recruiting Corporation are criticised by the Director of Native Labour, who is of opinion that a better and cheaper system for recruiting Natives within the Union should be devised.

"89. . . . At present the operations are conducted mainly through traders in the Native Territories, who are employed by the Corporation as agents, and who recruit from amongst their clients and their families, receiving a capitation fee for each Native secured for the mines. This, in the opinion of the Director of Native Labour, is an expensive system for the mines and bad for the Natives, as it is said to encourage habits of excessive credit as between them and the traders. He therefore suggests that it be put an end to, and that in its place labour exchanges should be established in the most important centres of Native population in South Africa. These labour exchanges should, in his opinion, be managed by a Board, on which the Government should hold the balance of control through a whole-time paid Chairman and nominated members, the remaining members to be direct representatives of the predominant industries.

"90. . . . On the other hand, it has been urged by representatives of the mining industry that the system in force at present has been arrived at after many schemes have been tried at different times; that it has proved very successful, and that any sudden or drastic change in it might be attended with great risk. The ultimate aim of the industry, it is said, is as far as possible to obtain its supply of Native labour without the assistance of recruiters, and the fact that of late years there has been a large increase in the number of Natives coming independently to the mines encourages the hope that this desire may be attained in time.

"91. . . . We are not satisfied on the evidence that, under the present arrangements, any serious abuses exist, or that it would be free from risk to the flow of labour to the mines to inaugurate such a drastic change as the one advocated by the Director of Native Labour. The Natives themselves thoroughly understand the system now in force, and it may well be open to question whether they would readily fall in with the alternative proposed."

The question was raised again in the Minority Report of the Economic and Wage Commission, 1925, which stated that the results of recruiting could be achieved more satisfactorily and with greater fairness if Government bureaux were established for the purpose of giving information to any Native wishing to go out to work.

"Such Government bureaux should record the names of employers to whom Natives go out to work, and should communicate full information as to the terms of the contract to the Magistrate and the police of the district in which the employer resides, and they could see that the terms of the contract were faithfully observed. This would be a guarantee to the Natives of fair treatment. No pressure should be exercised by such a bureau to influence the Native in his choice of

employers, but with full information as to the positions open and the rates of pay and conditions, the Native would have a right freely to choose his employer."

The Majority Report, however, held that a system of recruiting was inevitable.

Moreover, the Native Economic Commission of 1930-1932 made no recommendation on this head, and it does not appear that the idea of opening public employment exchanges for Native workers has been given serious consideration during the last few years, although recruiting has been the subject of criticism in various authoritative quarters. Thus the Native Affairs Commission made the following statement in its last report:

"It always seems as if the recruiting agent can in one way or another exercise the functions granted to him by his licence in an improper manner; the irresponsible action of an agent can sometimes influence a large field of labour and cause unnecessary friction. Desertion from service is usually attributable to the manner in which recruiting has taken place."¹

Although, however, the few suggestions made in South Africa for the establishment of a public placing system have had no practical effect, the Assisted Voluntary System set up by the Recruiting Corporation appears to be making rapid progress. Under this system, any Native who wishes to proceed to the Rand may present himself at an office of the Corporation, and unless he is found unfit for work he is sent to Johannesburg, his only obligations being to present himself within a fortnight for the purpose of employment on a mine affiliated to the Corporation and to repay his travelling expenses.

Inaugurated in 1928, when 1,264 Natives availed themselves of it, the Assisted Voluntary System helped 23,862 Natives to the mines in the year ending 30 June 1931, 47,772 in the next year and 80,099 in the year ending 30 June 1933. These figures appear to justify the mining industry's claim that the system has firmly established itself in Native favour.

The South African Native Economic Commission of 1930-1932, which regarded the tendency towards non-recruited engagement as salutary, pointed out that the Native using the Assisted Voluntary System is in the position of a non-recruited worker on arrival on the Rand. He is thus free to choose the mine on which he wishes to work and the length of contract, subject to the mine chosen being prepared to take him for such a period. In 1932 there were four mines ready to engage by the month Natives who came to them voluntarily. Others took them for periods of three, four and six months, as compared with the 270 shifts, or ten-and-a-half months, required from recruited workers.

In *Southern Rhodesia* proposals have been made by which recruiting would be combined with and limited by the operation of public labour exchanges. In 1921, a Committee appointed to enquire into the supply of Native labour suggested that touting by Native runners should be prohibited, that labour exchanges should be established at which employers would register their requirements, and that authorised labour agents might be permitted to recruit for definite employers at the agencies.

¹ UNION OF SOUTH AFRICA: *Report of the Native Affairs Commission for the Years 1932-1933*, p. 11.

In 1927, this idea was pressed again by a Committee of the Rhodesia Agricultural Union. The Government was to undertake the formation of labour exchanges. "Employers requiring labour would themselves go to the depots, or send accredited labour agents, and thus any recruiting of Natives would be directly under the eye of the depot manager, who would be responsible for fair play for the labourer and would do away with the promiscuous recruiting at present being carried on."

The distinction between recruiting by Government officers and recruiting at labour depots under Government control might no doubt be established without difficulty in territories where the Natives have had long experience of European administration and employment. It is worthy of note, however, that in *Kenya*, in the early days of European development, Government depots were suggested as an alternative to Government recruiting, and coupled with an administrative encouragement of the Natives to seek employment to a degree which is no longer considered correct policy. The East Africa Protectorate Native Labour Commission, 1912-1913, reporting on proposals for recruiting by administrative officers, recommended that "recruiting by professional agents be abolished, that district officers be directed in unequivocal language to encourage the Natives under their administration to enter the labour market, and that properly constituted Government labour camps be constructed at suitable centres, to which district officers should be instructed to direct men desiring work. By this is meant not that the Government is the recruiter of labour, but that it is the channel which brings it into direct touch with employers; the Native labourers would not be drafted out to work irrespective of their own wishes in the matter of work, locality, or employer".

In the preceding chapters it has been shown that the movement of Indian workers to *Ceylon* and *Malaya* is very largely one of assisted emigration, and that recruiting by *kanganies* serves mainly the subsidiary purpose of encouraging emigration. It would appear, therefore, that recruiting by *Ceylon* and *Malaya*, even in this restricted form which the Committee of Experts on Native Labour hesitated to classify as recruiting, is likely to disappear sooner or later.

An outstanding feature of Indian immigration into *Ceylon* is the very large percentage of emigrants who have previously been in the island; many cases are also known of families, some members of which reside in India while others work in *Ceylon*, the two groups changing places from time to time. This circumstance is largely due to the fact that *Ceylon* is geographically very close to the recruiting area, and that migration from India to *Ceylon* has been going on for a century. It is therefore rather surprising that the bulk of the new workers proceeding to *Ceylon* continue to be recruited, although with the long tradition of migration to the Island, the conditions there are probably well known in southern India. It may be mentioned in this regard that the Agent of the Government of India in *Ceylon*, in his 1927 and 1931 reports, expressed the view that the *kangany* had outlived his usefulness; the Agent even considered this opinion to be an under-statement, since the *kangany*, when holding the position of a foreman and acting as money-lender to the labourers under his control, is a potential disturber of the labour force of estates and may cause considerable trouble to superintendents.

As regards *Malaya*, before the crisis, there was an increasing percentage of Indian labourers assisted to emigrate to *Malaya* who presented themselves at one of the depots of the *Malayan* recruiting organisation

in India without passing through the hands of a *kangany*. At times the flow of non-recruited or voluntary emigrants had even to be checked in order to prevent such an excess of labour in Malaya as might lead to a fall in the rate of wages. It would seem, however, that this increase in voluntary emigration was more apparent than real. In his report for 1925, the Agent of the Government of India in British Malaya expressed the opinion that, apart from the unfavourable economic conditions in South India, the increase might possibly be attributed to certain practices of the *kanganies*. In order that they might introduce more than the twenty labourers whom they were authorised to recruit under their licence, the *kanganies* were alleged to bring in additional persons as voluntary emigrants. It was also alleged that many *kanganies* came to Malaya as voluntary emigrants and brought their recruits under similar conditions.

However, it would appear that the system of voluntary emigration is likely to develop, in view of the fact that the Indian Immigration Fund pays a sum of 2 dollars to each adult who comes to Malaya as a voluntary emigrant and 1 dollar to each of his minor dependants, and that voluntary emigrants are at liberty to go to any undertaking they like and can therefore seek the healthiest places of employment and the employers offering the best wages. Moreover, the Government of India, which, owing to the slump in rubber and tin, had suspended assisted emigration to Malaya in August 1930, agreed in May 1934 as a consequence of the improvement of the rubber situation to the resumption of assisted emigration of non-recruited workers, subject to certain conditions. These conditions, which were imposed by the Government of India in order to prevent excessive emigration and a possible fall in wage rates, are: (a) in the first year not more than 20,000 adults to be assisted to emigrate; (b) within two years from his entry into Malaya any emigrant to have the right to be repatriated for sufficient reasons, such as ill-health, unsuitability of the work, unjust treatment, impossibility of finding employment at standard rates of wages, and even after two years if circumstances warrant it; (c) the Emigration Commissioner in Madras to supply once a month to the local government a report on employment conditions in Malaya, and the statement of information supplied to the emigrants to be revised as often as circumstances may require. The new emigration conditions would seem to exclude the possibility of labour being recruited through *kanganies*, and the emigrants are apparently to be considered as non-recruited workers.

As regards migration within India to the Assam tea gardens, the main object of the Tea Districts Emigrant Labour Act, 1932, was to ensure as free a flow of labour to Assam as possible. Under the new system introduced by the Act, labourers who offer themselves spontaneously in the recruiting districts can be forwarded immediately, and need no longer, as under the previous Assam Labour and Emigration Act, be detained until a sardar comes to sponsor them. Another provision of the new Act gives the labourers the right to repatriation. Finally, the Act leaves the planters greater freedom of propaganda in the recruiting districts than the previous Act, under which practically all propaganda except by garden-sardars was illegal. In this connection the Royal Commission on Labour in India, on whose recommendations the new Act of 1932 was passed, suggested that the practice of some estates in Ceylon of supplying free of charge to the new recruits picture postcards, with space for writing and with printed lines informing their relations at home of their arrival on the estate and of their postal address, should be followed in the Assam tea gardens.

In some *French* colonies, the tendency towards introducing free placing for Native labour has given rise of late to various interesting experiments.

In *French West Africa*, the Administration provided for the organisation of a free placing system when it issued the Order of 29 March 1926 for the establishment of employment offices "to facilitate contact between employers and Native workers, to act as clearing houses for applications for and offers of employment, to ensure that such offers are brought to the notice of the Native authorities by the district officers, and to organise suitable propaganda for supplying the labour requirements of commercial, industrial and agricultural undertakings".

The headquarters, constitution, working and powers of the offices was left to the decision of the Lieutenant-Governor of each colony. A Circular of 29 March 1926 defined the functions of these bodies in the following terms:

"In the first place, it will be their duty to draw up, in co-operation with the Administration, as complete and exact an inventory as possible, for each region or, even better, for each district, of all labour likely to accept employment on public works and for private undertakings. A detailed study of the special situation in each district will be necessary for the proper carrying out of this preliminary work; it should be based on the most recent demographic information, such as censuses, taxation registers, etc., and should take into account the political state of the country, the state of public health, the density of the population, needs in respect of food crops, . . . the extent of Native cultivation of export crops, the extent of recruiting for the army, and any other circumstances. . . . In the light of this inventory of available labour, the employment offices will estimate the probable demand for labour for public works, private undertakings, and the progressive development of European colonisation. If the employment offices, whose task it is to facilitate relations between employers and workers and to act as clearing houses for applications for and offers of employment, keep their information up to date, they will be able to ensure a judicious distribution of labour."

The same Circular stresses the need of giving full representation on these bodies to the European settlers and Native population.

In actual fact, these employment offices, which were apparently to be the pivot of the new regulations, have so far been set up only in four colonies (Dahomey, Sudan, Ivory Coast and Upper Volta), and the recruiting methods practiced appear to be still a long way off the ideal of free placing, for which, however, the employment offices will sooner or later provide the machinery.

In *Madagascar*, the regional employment offices are similarly intended by the law to act as genuine labour exchanges, serving as an intermediary between European or Native employers and Native workers. Their duties include the centralising of applications for employment and for workers, and making them known to the public, for which purpose they are to keep in constant touch with neighbouring regional offices and the Central Employment Office. At present, however, these offices receive no applications for work, and the initiative for recruiting is left to the employers, who make use of Native recruiters for the purpose. But it is hoped that when the Native workers have become more civilised, the regional labour offices will become labour exchanges in the proper sense of the term.

This process may be assisted by the Order of 28 July 1931 regulating

the movement of Native workers outside their home districts¹. The second part of this Order relates to free Native workers, that is to say, those not engaged under contract, and contains the following provisions:

"A migration office for supervising the movements of Natives is established in the chief towns in the Fort Dauphin and Tuléar regions and in the Province of Manakara. Every Native not in possession of a regular contract of employment who wishes to migrate must present himself at this office, where his identity will be checked, and he will receive in exchange for his individual card a crossed identity card; a passport showing the place which he has notified as his destination, the route chosen and the reasons for the journey is to be made out on the back of the card. Every Native who has migrated under these provisions must present himself on arrival to one of the migration offices which have been established in fifteen districts; he is allowed a period of fifteen days in which to find work. At the conclusion of this period, he must either return to his home district or state the place where he desires to go, and his passport will then be endorsed accordingly."

In *Indo-China*, the Administration considers that the system of recruiting introduced by the Order of 25 October 1927 is intended only to meet a passing situation.

"This system made it possible to provide the maximum safeguards for the long-term contracts in use in South Indo-China, pending the natural development of other forms of the organisation of employment. In the interests of progress, as of colonisation, it is desirable so far as possible to aim at the adoption of forms of engagement and contract on the lines of those in force under the short-term contract system and at the encouragement of spontaneous emigration.

"The completion of the Trans-Indo-Chinese railway in the comparatively near future will certainly mean a far-reaching change in the present system, by facilitating the rapid and cheap transport of Natives from the over-populated regions of the North of Indo-China who wish to emigrate to the South. It may certainly be hoped that by that time so much progress will have been made, on the one hand, by employers in regard to the organisation of the employment of labour, its material and moral welfare and protection against endemic disease, and, on the other hand, by the administrative and health services in regard to their co-operation in the work of colonisation, that the flow of emigration to the South will develop naturally in consequence of the prospect of better conditions for the workers."²

It may be added that this process has already begun. There is, for instance, regular voluntary emigration of Tonkinese workers to foreign territory. It is true that the Tonkinese planters and manufacturers, both Europeans and Natives, have complained through their elected representatives that this emigration makes it difficult for them to recruit labour. In fact, however, it appears that its only effect, if it is limited in volume and recruiting is confined to the over-populated provinces of the Delta, where the density of the population is from 400 to 700 per square km., will be a slight rise in labour costs on the spot. Further, the workers employed by the agricultural undertakings on the Annam tablelands are all engaged under short-term contracts and they are all free migrants from the more densely-populated maritime areas. An

¹ Cf. *Journal Officiel de Madagascar*, 8 Aug. 1931.

² E. DELAMARRE, Inspector-General of Labour in Indo-China: *L'Emigration et immigration ouvrière en Indochine*. 1931.

experiment has also been made in long-distance recruiting under a system of non-contract labour by the Phu-Quôc Development Company, which recruited 450 needy Catholic Native families at Tonking for employment on the plantations of the Island of Phu-Quôc. These families were given plots of land varying in size from 200 to 1,000 square metres, and they constitute a source of present and future non-contract labour for the Company. The management of the Company, which employed also 537 contract workers of the same origin, has stated that the comparison is already entirely in favour of non-contract labour.

The setting up of official employment agencies has also been suggested in Indo-China, but the Administration considers that the rural population is not yet sufficiently advanced for the system to have any value.

The question of promoting the development of a spontaneous labour supply is under constant consideration, and the General Labour Inspectorate of Indo-China is following with the greatest interest the evolution of recruiting methods in neighbouring colonies in order that it may benefit by the experience gained.

In *New Caledonia*, the Employment Office which was set up at Numea by an Order of 11 March 1933 includes among its functions the placing of immigrant labour. Attached to this Office is an employment agency for non-immigrant labour, which collects all kinds of applications for employment and for workers and helps persons of either sex to find employment. In the interior of the island, applications for labour and offers of labour may be transmitted to the Director of the Employment Office through the local authorities.

In *Réunion*, there is a Colonial Employment Office which is responsible for centralising all applications for employment and for workers in agriculture, commerce and industry; it is attached to the Labour Inspectorate.

There are no employment exchanges in *Martinique* or *Guadeloupe*, but in *French Guiana* the municipality of Cayenne has set up a free placing service. Similarly, at *St. Pierre and Miquelon*, an Employment Office was recently set up.

In *Italian Somaliland*, the engagement of Native labour for industry must take place through employment offices attached to the regional commissariats. It is the duty of these offices to record the Native labour available and organise the placing of labour. The workers are supplied with a labour work book or card according to the grade to which they belong. The wages for each grade are fixed half-yearly by the Governor, if need be after consultation with the regional commissioners and representatives of the employers¹.

In the *Netherlands Indies*, the number of employment offices has grown steadily during the last few years and especially during the depression. In practice, however, this growth has had no effect on recruiting, which aims chiefly at the engagement of unskilled workers, while the employment offices deal solely with skilled workers.

Nearly all the recruiting in the *Netherlands Indies* takes place in the Islands of Java and Madura for the Outer Provinces, and it has often been argued that there is no occasion to set up an employment office as an intermediary between unskilled Javanese labour and the undertakings in the Outer Provinces. If such an office were to be successful, it is pointed out, labour must be offered, which, in fact, is not the case, because as a rule the Javanese do not spontaneously leave their country,

¹ Decree of the Governor of 31 July 1930, No. 8220.

but wait until they are persuaded to do so, or in other words, until they are recruited¹.

In this connection it may be interesting to recall the attempt made by the Administration in 1929 at Djokja, the centre of an over-populated province in Central Java. The object of the experiment was to show that the Javanese are quite willing to emigrate provided they do not have to "sell their heads" as they put it, that is to say, engage to work under penal sanctions. The method used was as follows: if an undertaking gave the office at Djokja an order for labour, and if the conditions of employment offered were considered satisfactory, the Native officials of the Administration and the village headmen gave wide publicity to these conditions among the population. Persons who offered themselves for employment were received at a Government dépôt, and, after being questioned, undergoing medical examination, etc., they were transported to the Outer Provinces under administrative supervision. It is considered that this method resembled placing rather than recruiting. At the end of about a year, however, the experiment had to be broken off owing to the crisis, but the results obtained so far were very encouraging. It was considered, nevertheless, to be open to some criticism. In particular, the fear was expressed that the village headmen, in their desire to please their superiors, would tend by degrees to turn the harmless publication of the conditions of employment into concealed coercion for the purpose of making people offer themselves for employment. It was also stated that, by giving publicity to the conditions of employment offered by private undertakings, the Administration made itself responsible in the eyes of the population for the observance of these conditions, which was naturally undesirable².

Reference should also be made to the experiment made at the end of 1930 and the beginning of 1933 by the A.D.E.K., an employers' organisation which ordinarily recruits through touts. Unemployment being particularly severe in the Province of Banjoumas, propagandists were sent there to give publicity to the possibilities of employment in the Outer Provinces, it being left to the workers' own initiative to present themselves at the organisation's dépôt. The experiment had to be suspended at the end of a few months because the increase in the demand for labour which had given rise to it did not continue³.

Finally, it should be observed that before the depression there was an increase in the number of persons who presented themselves voluntarily at the dépôts of the V.E.D.A. organisation, the popularity of which had grown owing to the facilities given to the workers for keeping in touch with their families in Java by the free transmission of money, letters and parcels.

Reference has previously been made to the efforts of the *Hawaiian Sugar Planters' Association* to secure labour in the *Philippine Islands*. This is another example of an employers' recruiting organisation abandoning active recruiting operations as the labourers gain confidence in their conditions of employment. Statements of labour requirements are made by the plantations and forwarded to the Association's offices in the Philippines so that a balance can be maintained between supply and demand. The Association selects the labourers, medically examines

¹ *Verslag van de Arbeidsinspectie voor de Buitengewesten*, 1917, p. 6, and 1920, p. 16.

² *Verslag van het Centraal Kolonisatie Comité*, 1931.

³ *Indisch Verslag*, 1933, Vol. I. *Tekst van het Verslag van Bestuur en Staat van Nederlandsch-Indië over het jaar 1932*.

them, concludes individual agreements with them, supplies them with clothing, organises their transport (the labourers paying their passage money) and distributes the labourers in Hawaii. The cost is financed by an assessment on the plantation companies on a production basis.

§ 2. — Recommendation of the Committee of Experts on Native Labour

The industrial history of countries of Western civilisation appears to show an undoubted tendency towards the adoption of the system of free public employment exchanges as a means of bringing employers needing labour and workers needing employment into touch with each other, and the general introduction of this system was contemplated in the international Convention of 1919 concerning unemployment. It would therefore appear to be logical and in conformity with accepted international principles that the methods of recruiting and placing in colonial territories should evolve on the same lines. In view, however, of the great diversity of conditions in these territories and of the differences in the degree of development of their populations, the Committee of Experts on Native Labour did not think it advisable to suggest as a universal principle the replacement of recruiting by free public placing systems. It held that whereas in certain territories this system might even now give very satisfactory results, in others the general economic and social conditions might be legitimate grounds for preferring other methods.

It will have been observed that the existing public employment exchanges described above are either, as in the Netherlands Indies, exchanges for the placing of skilled labour, whereas the problem of recruiting relates above all to the mass of unskilled workers, or, while theoretically defined by legislation as free employment agencies, they in fact serve above all as registration offices for applications for labour; since the Natives do not offer their labour, the working of these agencies must depend more or less on pressure being brought to bear by the Administration, as is the case in Madagascar and French West Africa, where the employment offices at present afford an example, not so much of a true free placing system, as of an attempt to establish it.

Further, the general survey of the situation in different territories given in Chapter II showed that the necessary conditions for the proper working of a public placing system are in many cases still only incompletely fulfilled. For there must previously exist a certain spontaneous offer of labour, and it is precisely the absence

or inadequacy of such offer that gives rise to recruiting as a means of obtaining workers. The fundamental problem, if it is sought to substitute a system of free relations between employers and workers for all recruiting, is therefore the creation of the spontaneous offer of labour. In its absence the public placing institution must run the risk of becoming another form of administrative recruiting.

The Committee of Experts therefore preferred to confine itself to certain indications, given in very general terms, as to the institutions that might be used for the progressive replacement of recruiting. It mentioned, by way of example only, public employment exchanges or other Governmental organisations, workers' co-operative, provident or other associations, and organisations of employers. It is clear that some of the institutions mentioned in the first section of this chapter resemble public placing or emigration offices, whereas others take their place more or less effectively or prepare the way for them.

The recommendation of the Committee of Experts is as follows:

REPLACEMENT OF RECRUITING

The Committee, being of opinion that the final object to be attained is the obtaining of workers by the spontaneous offer of labour, expresses the hope that the recruiting of labour will be progressively rendered unnecessary by such measures as the improvement of conditions of labour, the development of means of communication, and the creation of public institutions, or institutions under public supervision, for facilitating and if necessary controlling the voluntary movement of labour to areas where it is in demand, as for example, public employment exchanges or other Governmental organisations, workers' co-operative, provident or other associations, or organisations of employers.

CHAPTER IX

TEXT OF THE PRINCIPLES CONCERNING RECRUITING, ADOPTED BY THE COMMITTEE OF EXPERTS ON NATIVE LABOUR

The several sections of the principles concerning recruiting adopted by the Committee of Experts on Native Labour have been given in the chapters of this Report in which the matters with which they deal have been discussed. For convenience of reference, however, it has been thought desirable to give in this chapter the complete text of these principles in the order in which they were arranged by the Committee. This text, which was finally approved by the Committee at its fifth session, 30 April-5 May 1934, is as follows:

I. — Replacement of Recruiting

The Committee, being of opinion that the final object to be attained is the obtaining of workers by the spontaneous offer of labour, expresses the hope that the recruiting of labour will be progressively rendered unnecessary by such measures as the improvement of conditions of labour, the development of means of communication, and the creation of public institutions, or institutions under public supervision, for facilitating and if necessary controlling the voluntary movement of labour to areas where it is in demand, as, for example, public employment exchanges or other Governmental organisations, workers' co-operative, provident or other associations, or organisations of employers.

II. — Regulation of Recruiting

A. *Definition of Recruiting*

In these principles the term "recruiting" is used to mean any operation or operations undertaken with the object of obtaining or supplying the labour of persons who do not spontaneously offer their services either at the place of employment or at a public emigration or employment office or at an office of an employers' organisation under public supervision.

It should, however, be open to the competent authorities to except from this definition such operations by an employer who does not employ more than a specified number of persons at any one time, such operations undertaken within a specified radius from the place of employment, and such operations by the manual workers employed by a given undertaking who are commissioned by their employer to obtain the labour of other workers for the same undertaking under the conditions hereinafter provided.

B. *General Principles*

(1) When considering applications for land or mineral concessions or other applications to establish undertakings the granting of which is likely to involve the recruiting of labour, the competent authorities should only grant such applications on condition that:

- (a) there will be no risk of pressure on the peoples concerned in order to obtain the labour required for such concessions or undertakings;
 - (b) the political and social organisation of such peoples and their powers of adjustment will not be endangered by the demand for labour, whether the labour be offered spontaneously or not.
- (2) Before permitting the recruiting of labour in any given area, the competent authorities should take into consideration the possible effects of the withdrawal of adult males upon the community concerned and in particular should consider.

- (a) the density of the population and its tendency to increase or decrease, and the probable effect upon the birth-rate of the withdrawal of adult males;
- (b) the possible effect of the withdrawal of adult males upon the welfare and development of the community, notably in connection with the food supply;
- (c) the moral dangers arising from such withdrawal;
- (d) the probable effects upon social organisation.

As a safeguard against such dangers, the Committee recommends that the competent authorities should, where necessary, provide that the maximum number of males of labour age and fit for work who may be recruited in any given social unit, for employment either by Government or by private employers at a distance from their homes, should be so fixed that the number of males remaining in any given unit should not fall below a prescribed percentage of the normal proportion of males to the other members of the community (women and children).

(3) Unless special circumstances make the adoption of such a policy undesirable, the competent authorities should make recruiting conditional on every facility being given to the workers to be accompanied by their families, more particularly in the case of workers recruited for agricultural or similar employment at a long distance from their homes and for periods of employment exceeding a certain duration to be fixed by the competent authorities (e.g. one year).

When the absence of the worker and his family is intended to last only for the period of employment, provision should be made, whenever possible, for placing land at the disposal of the workers for the cultivation of food supplies. In all appropriate cases, the workers should be grouped under suitable ethnic conditions.

If and when the wife and minor children of a recruited worker accompany him to the place of work, the members of the family should not be separated during the period of the employment, except in such special cases as may be determined by the competent authorities.

If the policy of the Government is to establish the working population in the neighbourhood of the place of work, the workers should be properly settled, preferably on Government land.

(4) The general principles formulated above for the regulation of recruiting should be applied to voluntary movements of labour.

C. *Recruiting Agencies*

(1) *Public officers.* — Without prejudice to the recognised duty of the competent authorities to encourage the populations under their charge to engage in some form of labour, public officers should in no case act either directly or indirectly as recruiting agents for private undertakings.

(2) *Chiefs.* — Chiefs or other Native authorities should in no case be employed as recruiting agents. When it is considered desirable or necessary to have recourse to their good offices, care should be taken that they exercise no pressure upon prospective recruits. They should receive no remuneration either directly or indirectly and any abuses should be severely checked.

(3) *Professional recruiters.* — Professional recruiting should be prohibited except where the recruiter is a person or association to whom a licence has been issued in accordance with the conditions hereinafter provided and who is acting on behalf either of an administration or of one or more specific employers or organisations of employers.

(4) *Employers.* — Without prejudice to the provisions of section D below, recruiting by employers or their agents, or by organisations of employers or organisations subsidised by employers or the agents of these organisations, should only be permitted under licence issued by the competent authorities in accordance with the conditions hereinafter provided.

(5) *Recruiters' assistants.* — All persons employed by a licensee in a subordinate capacity to assist in actual recruiting operations (messengers, runners, etc.) should be approved by a public officer and furnished by the licensee with a permit. Without prejudice to any penalties for contraventions of the regulations concerning recruiting, they should be liable to dismissal from employment if found guilty of any act unfitting them for such employment.

D. *Recruiting Licences*

(1) *Licensing conditions.* — The conditions under which recruiting licences may be issued should be prescribed by law or regulations and should include the following requirements:

- (a) that the licensee, if an individual, is a fit and proper person, who in particular is unlikely to use abusive methods in inducing prospective workers to accept employment, and whose strict compliance with the regulations concerning recruiting may be presumed;
- (b) that every licensee should deposit with the competent authorities financial or other security for his proper conduct as a licensee;
- (c) that every licensee should keep records of all recruiting operations in such form as the competent authorities may prescribe; these records, which should be held at the disposal of the competent authorities, should be such that the regularity of every operation of recruiting can be ascertained and every recruited worker identified, more particularly by the record of his place of origin;
- (d) that the licensee, if he is the agent of another licensee, should receive a fixed salary in preference to a remuneration calculated at a rate per head of workers recruited;

- (e) that all necessary arrangements have been made for safeguarding the health and welfare of the recruited workers from the time of recruiting onwards.

(2) *Renewal and withdrawal of licences.* — Licences should be granted for a fixed period, and their renewal should be conditional upon the conformity of the holders during that period with the conditions under which the licences were granted.

Licences should be withdrawable where the licensee is found guilty of any offence or misconduct unfitting him to conduct recruiting operations; the competent authorities should have the power to suspend any licence pending the result of any enquiry into the conduct of the licensee.

E. *Obtaining of Labour by Workers*

The manual workers employed by a given undertaking may be commissioned by their employer to obtain the labour of other workers for the same undertaking on condition that:

- (a) the remuneration they may receive is not of such a nature or such an amount as to constitute an incitement to deceive prospective workers regarding the conditions of employment;
- (b) they are permitted to act only in the neighbourhood of their homes;
- (c) they are in possession of a permit issued by the employer and countersigned by a public officer;
- (d) their operations are supervised in such manner as may be prescribed by the competent authority.

F. *Protection of Recruited Workers*

(1) *Administrative supervision.* — Recruited workers should be brought by the recruiter before a public officer as near as possible to the place of recruiting; this officer should satisfy himself that the law and regulations concerning recruiting have been complied with, and in particular that the workers have not been subjected to illegal pressure or recruited by misrepresentation or mistake.

(2) *Memorandum of information.* — Where the engagement of the recruited worker does not take place at or near the place of recruiting, the recruiter should be required to deliver to the worker a memorandum of information, in such form as the competent authorities may prescribe, and containing the particulars necessary to identify the worker and appropriate particulars of the prospective conditions of employment, and, where necessary, the amount of the advances made to the worker.

(3) *Medical examination.* — Recruited workers should be medically examined as near as possible to the place of recruiting and returned to their homes if found unfit for any work. A second medical examination should be made on arrival at or conveniently near the place of work. The final decision whether the worker is fit to undertake the work for which he has been recruited, or fit for light work or for work after a specified period, should be made to depend on the result of the second medical examination.

(4) *Advances.* — The amount of the advances of wages that may be made to a recruited worker should be limited and regulated by the competent authorities so as to minimise as far as practicable the indebt-

edness of the worker when he commences work. It is recommended that, whenever possible, such advances should be made in the presence of the public officer before whom the worker is brought in accordance with paragraph (1) above; this officer should also inform the worker that the amount will be deducted by instalments from his wages.

(5) *Travelling expenses.* — The cost of the journey of recruited workers to the place of work and the expenses incurred in carrying out the requirements of the law or regulations for the protection of the workers during the journey, such as the provision of food, shelter and medical care, should be borne by the recruiter or employer¹, who should also be responsible for the expenses of returning to their homes any recruited workers whom a medical examination may have found unfit for employment.

(6) *Subsistence.* — Recruited workers travelling to the place of work should be furnished with everything necessary for their welfare during the journey, as for example, according to circumstances, adequate and suitable supplies of food, drinking water, fuel and cooking utensils, clothing and blankets.

(7) *Transport.* — Recruited workers should be transported, whenever possible, to the place of work. The vehicles or vessels used should be in good sanitary condition and should not be overcrowded, medical attention should be available at certain points when the journey is long, and suitable accommodation provided where it is necessary for the workers to stop for the night.

(8) *Journeys on foot.* — When recruited workers have to make long journeys on foot to the place of work, and the extent of the movement of labour demands it, camps or rest houses should be constructed and maintained at suitable points on the main routes traversed by labour; measures should be taken to ensure that such camps or rest houses are in good sanitary condition and that they do not become centres for the spread of infectious diseases, and the principal camps or rest houses should be furnished with the necessary requirements for medical attention to sick or injured workers, including emergency wards. Measures should also be taken to ensure that the length of the daily journey is compatible with the maintenance of the health and strength of the workers.

(9) *Convoyers.* — When recruited workers have to make long journeys in groups to the place of work, whether on foot or by transport, they should in general be convoyed by a responsible person.

G. *Additional Provisions for Migrant Workers*

The recruiting of workers in one territory for employment in a territory under a different administration should be regulated in accordance with the following provisions:

¹ Major Cooke dissented from the acceptance of this principle in its present form, as he was of opinion that it would adversely affect voluntary labour and seriously disturb existing wage rates in South Africa. He felt that as a necessary preliminary its economic effect would require the closest examination by the Union Government.

(1) Such recruiting should only be permitted under conditions stipulated in agreements between the competent authorities of the territories concerned. In so far as the necessary provisions are not already contained in the law or regulations of the territory of recruiting or of destination, as the case may be, such agreements should stipulate, *inter alia*, the extent to which the recruiting is to be permitted and the circumstances in which it may be wholly or partly suspended, the conditions under which the recruiting is to be permitted (e.g. the organisation and supervision of recruiting, the measures for the protection of the workers during the journey to and from the place of work, the minimum standard conditions of work, whether the workers may be accompanied by their families, workmen's compensation, the nature and length of the employment, repatriation, medical organisation, etc.); and the extent and methods of co-operation between the competent authorities concerned in supervising the execution of the agreement and of the conditions of recruiting and employment.

(2) Such recruiting should only be permitted to be undertaken by organisations whose rules have been approved by the competent authorities of both territories, or by recruiting agents who have been licensed to recruit by the competent authorities of the territory of recruiting.

(3) A representative of the competent authority at the place of departure should satisfy himself, before authorising the departure of the recruited worker, that the conditions laid down in the law or regulations of the territory of recruiting or in the agreement under which recruiting for such employment is permitted have been complied with.

(4) Such recruited workers should always be medically examined in the territory of recruiting and all necessary measures should be taken, immediately before they leave the territory of recruiting, to ensure that they are physically fit and that they have undergone the prescribed inoculations. When the journey to the territory of employment involves a voyage by sea or inland waterway of a minimum duration to be determined by the competent authorities concerned, the workers should be medically examined again on their arrival in the territory of employment.

This provision should also apply to workers recruited for employment in a distant territory under the same administration.

(5) When the journey of such recruited workers involves a voyage by sea or inland waterway of a minimum duration to be determined by the competent authorities concerned, the law or regulations or the agreements should prescribe:

- (a) which administration is responsible for the protection of the workers during the voyage;
 - (b) the measures to be taken to ensure that the vessels used are suitably adapted for such transport;
 - (c) that the workers are placed in the charge of a responsible person; and
 - (d) that all necessary arrangements are made for the medical care, and in general for the welfare of the workers during the voyage,
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CONSULTATION OF THE GOVERNMENTS

The successive chapters of this Report have given, in addition to a summary of the law and practice in regard to the recruiting of labour in colonies and in other territories with analogous labour conditions, the texts of the conclusions of the Committee of Experts on Native Labour on the various aspects of the question on the Agenda; these texts have also been reproduced in their collected form in Chapter IX.

On the basis of these conclusions the International Labour Office has prepared the following list of points on which it is suggested that the Conference should instruct the Office to consult the Governments.

I. — FORM OF THE INTERNATIONAL REGULATIONS

1. A Draft Convention concerning the recruiting of labour in colonies and in other territories with analogous labour conditions.

II. — DEFINITION OF RECRUITING

2. Definition of recruiting.

3. Exceptions to the definition in the case of:

- (a) employers who do not employ more than a specified number of workers;
- (b) employers who recruit only within a specified radius from the place of employment;
- (c) any other cases.

III. — GENERAL REGULATION OF RECRUITING

4. Subordination of grant of land or mineral concessions or permission to establish other undertakings to fulfilment of certain conditions, including:

- (a) condition that there will be no risk of pressure on inhabitants to furnish labour;
- (b) condition that the political and social organisation of inhabitants and their powers of adjustment to new social and economic circumstances will not be endangered by the demand for labour;
- (c) any other conditions.

5. Subordination of permission to recruit labour in any given area to result of examination of possible effects of withdrawal of adult males on social life of inhabitants, in particular in respect of:

- (a) birth rate;
- (b) welfare and development, notably in connection with the food supply;
- (c) the family and morality;
- (d) social organisation;
- (e) any other criteria.

6. Principle of fixing, where necessary, the maximum number of adult males who may be recruited in any given social unit so that the number of males remaining does not fall below a prescribed percentage of the normal proportion of males to women and children.

7. Principle that granting of permission to recruit should be conditional on facilities being given to workers to be accompanied by their families, particularly in case of workers recruited for agricultural or similar employment at a long distance from their homes and for periods exceeding a specified duration.

8. Prohibition of separation of recruited workers from their wives and minor children when latter have accompanied them to place of employment.

9. Provision of land (preferably Government land) for settlement where policy of Government is to establish working population in areas of employment.

10. Provision of land for cultivation of food supplies where workers accompanied by their families are intended to remain in area of employment only for duration of contract.

11. Grouping of recruited workers under suitable ethnic conditions.

IV. — AGENCIES FOR RECRUITING

12. Prohibition of recruiting for private undertakings by public officers, either directly or indirectly.

13. Prohibition, on the part of chiefs or other indigenous authorities, of:

- (a) acting as recruiting agents;
- (b) exercising pressure upon intending recruits;
- (c) receiving, either directly or indirectly, any remuneration in connection with recruiting.

14. Prohibition of recruiting as a profession, except under licence and on behalf of an administration or of one or more specific employers or organisations of employers.

15. Requirement of licence for recruiting by employers or their agents, by organisations of employers or organisations subsidised by employers or their agents.

16. Requirement of permit and approval of public authority for recruiters' assistants.

17. Special case of recruiting by manual workers on behalf of their employer: conditions as to:

- (a) permit;
- (b) remuneration;
- (c) area of recruiting;
- (d) supervision;
- (e) any other conditions.

V. — RECRUITING LICENCES

18. Conditions for issue of recruiting licences:

- (a) guarantees as to character of recruiter;
- (b) deposit of financial or other security;
- (c) keeping of records of recruiting operations;
- (d) payment of fixed salaries to agents in preference to remuneration per head of workers recruited;

- (e) adequate provision for safeguarding health and welfare of recruited workers;
- (f) any other conditions.

19. Period of validity of licences.

20. Provisions for renewal, withdrawal and suspension of licences.

VI. — PROTECTION OF RECRUITED WORKERS

21. Requirement that recruited workers be brought before public officer as near as possible to place of recruiting for verification of observance of law and regulations.

22. (i) Delivery to recruited workers not engaged at or near to place of recruiting of a document in writing (e.g. memorandum of information, work-book, provisional contract).

(ii) Contents of this document:

- (a) particulars of identity;
- (b) conditions of employment;
- (c) advances of wages;
- (d) any other information.

23. Requirement of:

- (a) medical examination as near as possible to place of recruiting;
- (b) second medical examination on arrival at or conveniently near place of employment to decide finally on physical aptitude of worker for employment.

24. Limitation, regulation, and supervision of advances of wages to recruited workers.

25. Requirement:

- (a) that expenses of journey of recruited workers to place of employment and all expenses incurred for protection of workers during the journey be borne by recruiter or employer;
- (b) that expenses of returning home recruited workers found unfit for employment by medical examination be borne by employer or recruiter.

26. Provision for subsistence and welfare of recruited workers during journey to place of employment.

27. Provision for carriage, whenever possible, of recruited workers to place of employment and conditions of transport.

28. Journeys on foot of recruited workers to place of employment:

- (a) provision of camps or rest houses, and conditions of such camps or rest houses;
- (b) length of daily journey;
- (c) any other provisions.

29. Provision for conveying by a responsible person.

VII. — ADDITIONAL PROVISIONS FOR MIGRANT WORKERS

30. (i) Principle that recruiting of workers in one territory for employment in a territory under a different administration should be permitted only under conditions stipulated in agreements between the administrations concerned.

(ii) Contents of such agreements:

- (a) in so far as necessary provisions are not contained in law or regulations of one or both administrations concerned: permissible extent of recruiting, suspension of recruiting, conditions under which recruiting permitted:
- (b) extent and methods of co-operation between administrations concerned;
- (c) any other matters.

31. Requirement that recruiting of workers in one territory for employment in a territory under a different administration be permitted only by:

- (a) organisations whose rules have been approved by both administrations; or
- (b) recruiting agents licensed in the territory of recruiting.

32. Verification of observance of law or regulations, or of provisions of agreements, by public officer before authorising departure of recruited workers.

33. Requirement of:

- (a) medical examination before departure from territory of recruiting;
- (b) measures for ensuring physical fitness and, if necessary, for inoculation of workers immediately before departure;
- (c) medical examination on arrival in territory of employment when journey involves voyage by sea or inland waterway of prescribed duration.

34. Provisions for protection of recruited migrant workers, who journey by sea or inland waterway, in respect of:

- (a) administrative responsibility;
- (b) suitability of vessels;
- (c) convoying;
- (d) medical and other welfare arrangements;
- (e) any other provisions.

VIII. — APPLICATION OF ARTICLE 421 OF TREATY OF PEACE

35. Special provision for the application of the international regulations in dependent territories and methods of applying Article 421 of the Treaty of Peace.

SUPPLEMENTARY RECOMMENDATION

36. Desirability of a supplementary Recommendation concerning the progressive elimination of recruiting by:

- (a) improvement of labour conditions;
 - (b) development of means of communication;
 - (c) creation of institutions for facilitating and, if necessary, controlling voluntary movement of labour, and nature of such institutions.
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APPENDIX

List of the most important Legislative Texts relating to the Recruiting of Labour in Colonies and in Other Territories with Analogous Labour Conditions ¹

INTERNATIONAL

Portugal-South Africa

Convention of 11 September 1928 to regulate the introduction into the Province of the Transvaal of Native Labour from the Colony of Mozambique, together with questions of Transport and Commercial Traffic (*L.S.*, 1928, Int. 3).

Portugal-Southern Rhodesia

Agreement of 22 July 1925 concerning the recruiting of Native labourers in the District of Tete in the Province of Mozambique for employment in the Colony of Southern Rhodesia (*L.S.*, 1925, Int. 2).

Spain-Liberia

Convention of 22 May 1914 concerning the recruiting of Liberian workers for employment in the Colony of Fernando Po.

NATIONAL LEGISLATION

AUSTRALIAN MANDATE

New Guinea

Native Labour Ordinance, 1922-1933 (*L.S.*, 1922, L.N. 3; 1923, L.N. 3; 1924, L.N. 3; 1927, L.N. 6; 1930, L.N. 2; 1931, L.N. 6; 1932, L.N. 1; 1933, L.N. 2).

Regulation of 31 July 1924 concerning the contract of service.

¹ Texts published by the International Labour Office in the *Legislative Series* are indicated by the abbreviation *L.S.*, followed by the year and reference number.

BRITISH EMPIRE MANDATE (AUSTRALIAN ADMINISTRATION)

Nauru

Chinese and Native Labour Ordinance, 1922 (*L.S.*, 1922, L.N. 4).
Regulation of 7 February 1925 concerning the employment of Nauruans.

BRITISH MANDATES

Cameroons

See under *Nigeria*.

*Tanganyika Territory*¹

Master and Native Servants Ordinance (chap. 51 of 1928 Edition of Laws) (*L.S.*, 1923, L.N. 5; 1926, L.N. 2; 1927, L.N. 10), amended by Nos. 24 of 1928 (*L.S.*, 1928, L.N. 5) and 35 of 1931 (*L.S.*, 1931, L.N. 2).

Master and Native Servants (Inter-District Recruiting) Regulation, 1923, amended by Government Notice No. 78 of 1929.

Recruitment of Native Labour Regulations, 1927.

Government Notice No. 153 of 1929, concerning the prohibition of recruiting in certain areas of the Nzega District.

Master and Native Servants (Restriction on Recruitment) Regulations, 1930.

Master and Native Servants (Restriction on Recruitment) Regulations, 1931.

Master and Native Servants (Restriction on Recruitment) Regulations, 1933.

Master and Native Servants (Restriction on Recruitment) (Usoga Federation) Regulations, 1933.

Master and Native Servants (Restriction on Recruitment) (No. 2) Regulations, 1933.

Togoland

See under *Gold Coast*.

FRENCH MANDATES

*Cameroons*²

Order of 30 December 1916 (Report, 1921, p. 84).

Decree of 4 August 1922 regulating the employment of Natives in the Cameroons (*L.S.*, 1922, L.N. 1), amended by Decrees of 9 July 1925 (*L.S.*, 1925, L.N. 2) and 13 February 1926 (Report, 1926, p. 151).

Circular of 4 November 1925 concerning the application of the Decree of 9 July 1925.

Supplementary texts:

(1) *Restriction of recruiting:*

Order of 6 June 1924 regulating the recruiting of workers in sleeping-sickness areas.

¹ The laws are published in *The Laws of the Tanganyika Territory*, 1928, and in subsequent annual volumes of *Tanganyika Territory Ordinances*, etc.

² Report = *Rapport annuel sur l'administration sous mandat du Cameroun*.

Order of 12 June 1928 concerning the prohibition of recruiting in certain areas.

(2) *Indirect compulsion:*

Order of 6 May 1924 concerning vagrancy.

Decree of 2 June 1933 concerning the embezzlement of advances on wages.

(3) *Arbitration councils:*

Order of 3 December 1929 concerning arbitration councils.

(4) *Work books:*

Orders of 10 November 1923, 27 June 1924 and 26 March 1928 concerning work books.

(5) *Labour inspection:*

Order of 24 February 1933 to institute a Labour Inspectorate in the Cameroons, amended by the Order of 21 October 1933 (*L.S.*, 1933, L.N. 1).

*Togoland*¹

Decree of 29 December 1922 regulating the employment of Natives in French Togoland (*L.S.*, 1922, L.N. 2).

Order of 25 May 1923 instituting contracts of employment, work books and registers of workers in Togoland (*L.S.*, 1923, L.N. 6).

Order of 27 October 1924 instituting work books and concerning the medical inspection of persons employed in public and private undertakings in the territory of Togoland under French Mandate (*L.S.*, 1924, L.N. 5). This text revokes the Order of 25 May 1923, in so far as it relates to contracts of employment.

Order of 11 December 1925 supplementing the above Order (*L.S.*, 1925, L.N. 6).

Order of 19 May 1928 concerning the application of the Decree of 29 December 1922 (*J.O.*, 1 June, 1928, p. 291).

Supplementary texts:

(1) *Emigration:*

Decree of 1 March 1927, amended by the Orders of 23 May 1927, 4 and 20 June 1927 (*L.S.*, 1927, L.N. 3).

(2) *Arbitration councils:*

Order of 25 May 1923 establishing arbitration councils in certain districts (*J.O.*, 1 June, 1923, p. 195).

(3) *Work books:*

Order of 22 November 1928 concerning work books for Native domestic servants.

(4) *Labour inspection:*

Order of 16 November 1929 to institute a post of Labour Inspector (*J.O.*, No. 146, p. 674).

NEW ZEALAND MANDATE

Western Samoa

Melanesian Labourers Ordinance, 1927 (*L.S.*, 1927, L.N. 7).

Labour Ordinance, 1933 (*L.S.*, 1933, L.N. 3).

¹ *J.O.* = *Journal Officiel du Territoire du Togo*.

UNION OF SOUTH AFRICA MANDATE

*South West Africa*¹

Proclamation No. 3 of 1917 concerning the control and treatment of Natives on mines.

Native Administration Proclamation, 1922.

Native Labour Proclamation, 1925.

Government Notice No. 6 of 1925, publishing regulations under Proclamation No. 3 of 1917 and the Native Labour Proclamation, 1925.

ANGLO-EGYPTIAN SUDAN

Proclamation of 1 June 1904 concerning the removal of Native children and servants from the Sudan, amended by Gazette Notice No. 331 of 1918.

Proclamation of 14 October 1920 concerning the removal of Native servants.

AUSTRALIAN TERRITORY

Papua

Native Labour Ordinance, 1911-1933 (*L.S.*, 1927, Austral. 9; 1931, Austral. 12).

Native Labour Regulations, 1933.

BELGIAN CONGO²

The following three laws constitute the fundamental legislation:

Decree of 16 March 1922 concerning contracts of employment (*B.O.*, 1922, p. 354).

Decree of 15 June 1921 respecting industrial hygiene and safety (*L.S.*, 1930, Bel. 15).

Ordinance of 18 June 1930 to issue public administrative regulations respecting industrial hygiene and safety and to prescribe measures for carrying out contracts of employment between Natives and civilised employers (*L.S.*, 1930, Bel. 15).

(1) The Decree of 16 March 1922 has been amended by the following texts:

Ordinance of 17 January 1923 concerning the attestation of contracts of employment;

Ordinance of 16 February 1925 concerning workers in public employment;

Ordinance of 26 March 1927 amending the details of application of the Decree;

Ordinance of 3 April 1928 introducing provisions relating to the acclimatisation of workers;

¹ The laws are published in the annual volumes of *The Laws of South West Africa*.

² *B.O.* = *Bulletin Officiel du Congo Belge*.

Ordinances of 29 April 1929 and 20 April 1930, to insert in the Decree a new Division VII (a) concerning the acclimatisation of workers;

Ordinance of 27 January 1930 concerning the attestation of contracts of employment, amended by Ordinance of 19 May 1932.

The following local Ordinances have been promulgated in application of the Decree of 16 March 1922:

Congo-Kasai: Ordinance of 12 September 1922 and Legislative Ordinance of 25 October 1929.

Eastern Province: Ordinances of 16 November 1922 and 14 August 1925.

Equator: Ordinances of 26 June 1922 and 13 February 1924.

Katanga: Ordinances of 8 September 1922, 30 December 1925, 26 March 1927 and 4 October 1927.

The above measures together with those in application of the Decree of 15 June 1921, have been standardised by the Ordinance of 18 June 1930.

(2) The Decree of 15 June 1921 respecting industrial hygiene and safety has been amended by the Ordinance of 26 March 1927.

The following local Ordinances have been promulgated in application of the Decree:

Congo-Kasai: Ordinance of 12 August 1923.

Eastern Province: Ordinance of 20 October 1927.

Equator: Ordinance of 17 November 1925.

Katanga: Ordinance of 4 October 1927.

The above measures have been standardised by the Ordinance of 18 June 1930.

(3) The Ordinance of 18 June 1930, forming the basis of the present legislation concerning recruiting, has been amended, for the most part on points of detail, by the following texts:

Ordinances of 11 June 1931, 30 December 1931, 12 February and 24 April 1932.

The following local Ordinances have been promulgated in application of the Ordinance:

Congo-Kasai: Ordinances of 25 September 1930, 25 April and 5 November 1931 and 30 April 1932.

Eastern Province: Ordinances of 26 November and 16 December 1930, 4 May, 27 June and 19 October 1931, 1 April and 25 May 1932.

Equator: Ordinance of 9 November 1931.

Katanga: Ordinances of 28 October 1930, 5 May 1931, 30 August 1932 and 2 June 1933.

BRITISH COLONIES AND PROTECTORATES ¹

Basutoland

Basutoland Native Labour Proclamation, 1907, amended by Nos. 43 of 1907, 48 of 1912 and 24 of 1927.

¹ The legislation for each territory is contained in the various *Revised Editions of Laws* and in subsequent annual volumes of laws.

Bechuanaland Protectorate

Bechuanaland Protectorate Native Labour Proclamation, 1907, amended by Nos. 7 of 1909, 10 of 1912, 45 of 1919 and 62 of 1921.

British Guiana

Emigration Regulation Ordinance (chap. 210 of 1930 Edition of Laws).

Aboriginal Indian Protection Ordinance (chap. 262 of 1930 Edition of Laws).

British Honduras

Labour Ordinance (chap. 104 of 1924 Edition of Laws).

Fraudulent Labourers (Advances) Ordinance (chap. 105 of 1924 Edition of Laws).

British Solomon Islands Protectorate

Solomons Labour Regulation, 1921, amended by Nos. 7 of 1923 and 1 of 1925.

Brunei

Labour Code, 1932 (*L.S.*, 1932. Brunei 1).

Ceylon

Ordinance of 28 September 1847 to prohibit Natives of India from entering into contracts in the Island for labour to be performed in any British or foreign colony beyond the limits of the Island and without the territories of the East India Company, and from emigrating from the Island to such colony for the purpose of employment as labourers (1923 Edition of Laws).

Ceylon Emigration Ordinance, 1882 (1923 Edition of Laws).

Emigration Ordinance, 1917 (1923 Edition of Laws).

Labour Ordinance, 1923 (1923 Edition of Laws).

Fiji

Emigration Ordinance, 1892 (1924 Edition of Laws).

Fijian Labour Ordinance, 1895, amended by Nos. 18 of 1905, 4 of 1912 (1924 Edition of Laws) and 17 of 1930.

Gambia

Native Labour (Foreign Service) Ordinance, 1913 (chap. 68 of 1926 Edition of Laws).

Gilbert and Ellice Islands

Gilbert and Ellice Islands (Labour) Regulation, 1915, amended by Ordinances Nos. 10 of 1932, 4 of 1933, 1 of 1934.

Native Passengers Ordinance, 1929.

Gold Coast

- Master and Servant Ordinance (chap. 101 of 1928 Edition of Laws).
- Master and Servant Regulations (No. 7 of 1924).
- Recruitment of Labour (Prohibited Areas) Regulations (No. 24 of 1925).
- Mining Health Areas Ordinance (chap. 106 of 1928 Edition of Laws) (L.S., 1925, G.C.1).
- Mining Health Areas Regulations (L.S., 1925, G.C.1).

Grenada

- Emigrants Protection Ordinance, 1927, amended by No. 4 of 1930.

Hong Kong

- Asiatic Emigration Ordinance, 1915.

Jamaica

- Emigrants Protection Law, 1924 (L.S., 1925, Jam. 1).

Kenya Colony and Protectorate

- Employment of Natives Ordinance (chap. 139 of 1926 Edition of Laws).
- Rules of 21 April 1910 concerning Labour Agents.

Leeward Islands

- Emigrants Protection Act, 1929, amended by No. 6 of 1931.

Malay States (Federated)

- Labour Code, 1923 (L.S., 1923, F.M.S. 1), amended by Enactments Nos. 19 of 1925 (L.S., 1926, F.M.S. 1), 1 of 1928, 8 of 1928, 20 of 1929, 9 of 1930 and 9 of 1932 (L.S., 1932, F.M.S. 1).

Malay States (Unfederated)

- Johore*: Labour Code, 1924, amended by Enactments Nos. 14 of 1926, 16 of 1928, 3 of 1932 and 17 of 1932.
- Kedah*: Labour Code, 1345, amended by Nos. 1 and 19 of 1351.
- Kelantan*: Indian Immigration Enactment, 1927 as amended by Nos. 10 of 1928, 24 of 1930, 7 of 1932 and 16 of 1933.
- Perlis*: Labour Code, 1345, as amended by Enactments Nos. 12 of 1350 and 10 of 1351.

Mauritius

- Free Emigration Ordinance, 1933.
- Emigration Regulations, 1933.

New Hebrides

- New Hebrides Labour Regulation, 1934.

Nigeria

Labour Ordinance, 1929 (*L.S.*, 1929, Nig. 1).

Labour Regulations, 1929.

North Borneo

Labour Ordinance, 1929 (*L.S.*, 1929, N.B. 1), amended by Notifications Nos. 85 of 1930, 251 of 1930, 449 of 1930, 77 of 1931 (*L.S.*, 1931, N.B. 1) 156 of 1932 (*L.S.*, 1932, N.B. 1), 275 of 1932 (*L.S.*, 1932, N.B. 1) and 109 of 1934.

Northern Rhodesia

Employment of Natives Ordinance, 1929 (*L.S.*, 1929, N.R. 1), amended by No. 41 of 1930 (*L.S.*, 1930, N.R. 3).

Employment of Natives Regulations, 1931.

Nyasaland

Employment of Natives Ordinance, 1909, amended by No. 14 of 1911.

Proclamation No. 2 of 1926 concerning rules for the recruiting of labour.

St. Lucia

Emigrants Protection Ordinance, 1928.

St. Vincent

Emigrants Protection Ordinance, 1927.

Sarawak

Order No. L-3 (Labour Protection), amended by Nos. L-3 A of 1930 and L-3 B of 1933.

Order No. N-3 (Netherlands Indian Labourers' Protection), amended by Notifications Nos. 606 of 1928, 653 of 1928, 64 of 1929 and 241 of 1929.

Seychelles

Proclamation No. 7 of 1879 extending to the Seychelles the Mauritius Labour Ordinance of 1878.

Labour Law (Amendment) Ordinance, 1902.

Lesser Dependencies (Mauritius) Contracts of Service Ordinance, 1905.

Foreign Employment Ordinance, 1909.

Outlying Islands Labour Ordinance, 1909, amended by Nos. 14 of 1909, 5 of 1910 and 15 of 1932.

Government Notice No. 152 of 1931 publishing Regulations concerning the medical examination of labourers.

Sierra Leone

Native Labour (Foreign Service) Ordinance, 1924 (chap. 133 of 1925 Edition of Laws).

Native Labour (Foreign Service) (Casablanca) Order, 1928.

Somaliland

Native Labour Regulations, 1901, amended by Ordinances Nos. 8 of 1912, 1 of 1913 and 8 of 1927.

Southern Rhodesia

Native Labour Regulations Ordinance, 1911.

Rhodesian Native Labour Bureau Ordinance, 1911, amended by No. 18 of 1914.

Government Notice No. 60 of 1916 publishing Regulations under the Native Labour Regulations Ordinance.

Straits Settlements

Ordinance No. 197 (Labour) (*L.S.*, 1923, S.S. 1), amended by Nos. 34 of 1926 (*L.S.*, 1926, S.S. 1), 10 of 1928 (*L.S.*, 1928, S.S. 1), 6 of 1930 (*L.S.*, 1930, S.S. 1), 15 of 1932 (*L.S.*, 1932, S.S. 3) and 33 of 1933 (*L.S.*, 1933, S.S. 3).

Swaziland

Native Labour Regulation (Swaziland) Proclamation, 1913, amended by Proclamations No. 30 of 1917, and 9 of 1923.

High Commissioner's Notice No. 75 of 1933, concerning advances.

Trinidad and Tobago

Foreign Labour Contracts Ordinance (chap. 166 of 1925 Edition of Laws).

Uganda

Masters and Servants Ordinance (chap. 55 of 1923 Edition of Laws), amended by No. 19 of 1925.

Zanzibar

Master and Native Servants Decree, 1925 (*L.S.*, 1925, Zan. 1).

CHINA

Labour Emigration Law of 21 April 1918.

Labour Recruiting Agency Regulations of 21 April 1918.

FRENCH COLONIES

French Equatorial Africa

Decree of 7 April 1911 regulating contracts of employment in French Equatorial Africa.

Decree of 4 May 1922 respecting the labour system in French Equatorial Africa (*L.S.*, 1922, Fr. 2).

Order of the Governor-General of 11 February 1923, amended by the Order of 7 April 1927.

Circular of 11 February 1923.

Supplementary texts:

Order of 18 February 1921 concerning the recruiting of Native labour in French Equatorial Africa and the Cameroons.

Order of 3 January 1927 instituting work books for Native workers.

Order of 22 October 1929 concerning the embezzlement of advances on wages by workers employed in public and private undertakings.

Order of 11 April 1930 concerning vagrancy in French Equatorial Africa.

Order of 17 July 1930 instituting in the Colony of *Tchad* passes for Natives travelling through the colony or temporarily in its territory.

Annual Orders prescribing in the case of each colony the various recruiting districts and fixing the number of workers to be recruited in each.

French West Africa

Decree of 22 October 1925 to regulate Native labour in French West Africa (*L.S.*, 1925, Fr. 13).

Order and Instructions of 29 March 1926 to lay down rules for the administration of the Decree of 22 October 1925 (*L.S.*, 1926, Fr. 12).

Orders issued by the Lieutenant-Governors of the various colonies in French West Africa, to lay down rules for the administration of the above Decree in the colonies:

Dahomey: Order of 17 August 1927 (*L.S.*, 1927, Fr. 14).

French Guinea: Order of 30 August 1926 (*L.S.*, 1926, Fr. 14).

French Sudan: Order of 1 December 1926.

Ivory Coast: Order of 18 March 1927.

Mauritania: Order of 6 November 1926.

Senegal: Order of 12 April 1929.

Supplementary texts:

(1) *Employment offices*:

Dahomey: Order of 17 September 1926.

French Sudan: Order of 14 October 1926.

Ivory Coast: Order of 15 November 1926.

Upper Volta: Order of 3 August 1928.

(2) *Health of the workers*:

Ministerial Circulars of 22 July, 4 October 1924 and 23 May 1925.

Instructions of 1 August 1930 relating to: (a) the Native medical relief service; (b) the health and sanitary protection of workers recruited by private persons.

(3) *Emigration*:

Decree of 24 April 1928 to issue regulations for the emigration and circulation of Natives in French West Africa.

Order of the Governor-General of 13 May 1928 concerning emigration and circulation of Natives in French West Africa.

(4) *Immigration:*

Order of the Governor-General of 1 May 1911 regulating immigration in French West Africa.

Orders issuing regulations for the organisation and the control of emigration and immigration have been issued in the following colonies of French West Africa:

Dahomey: Order of 28 June 1929.

French Guinea: Order of 15 April 1929.

Ivory Coast: Order of 6 June 1930.

Mauritania: Order of 21 November 1931.

Senegal: Order of 23 January 1931.

(5) *Indirect compulsion:*

Decree of 29 March 1923 concerning vagrancy in French West Africa.

Decree of 2 June 1932 concerning the embezzlement or squandering of advances on wages, of bonuses on engagement or of travelling expenses.

Indo-China

Order of the Governor-General of 26 August 1899 prescribing the conditions for contracts of employment between European employers and Native workers or Asiatic workers in Tonkin and instituting work books. (This text has been made applicable to Annam, to Cochin-China and to Cambodia by the Order of 5 February 1902, and to Laos by the Order of 31 December 1911. It has been supplemented by the Orders of the Governor-General of 30 June 1903, 22 April 1904, 6 March 1924 and 25 January 1930.)

Order of the Governor-General of 25 October 1927 issuing regulations for the protection of Native and alien Asiatic labour employed under contracts in agricultural, industrial and mining undertakings in French Indo-China (*L.S.*, 1927, Fr. 11), amended by the Orders of the Governor-General of 6 December 1927 (*L.S.*, 1927, Fr. 11), and 29 March 1929.

The following local Orders have been promulgated in application of the Order of 25 October 1927:

Annam: Order of the Resident in Chief of 2 March 1928.

Cambodia: Order of the Resident in Chief of 6 November 1928.

Cochin-China: Order of 26 June 1928 and Circulars of 22 December 1927 and 1 January 1928.

Supplementary texts:

(1) *Professional recruiters:*

Order of the Governor-General of 16 July 1930 issuing regulations for the exercise of the profession of labour recruiter.

(2) *Identity cards:*

Order of the Governor-General of 9 November 1918 instituting an identity card for Natives circulating in Indo-China, amended by Erratum of 20 April 1919 and by the Order of 7 May 1920.

Order of the Governor-General of 10 July 1928 to institute a special contract worker's card for Native workers of both sexes engaged under a contract of employment elsewhere than in their country of origin.

(3) *Health and safety:*

Ministerial Circulars of 22 July and 4 October 1924 concerning health and safety.

Order of 13 March 1925 to institute at Haiphong a permanent Committee to inspect the proper carrying out on all transport vessels of measures for the health and safety of Indo-Chinese emigrants recruited for work abroad.

(4) *Labour inspection:*

Order of the Governor-General of 19 July 1927 to set up a General Labour Inspectorate in French Indo-China (*L.S.*, 1927, Fr. 12).

Order of the Governor-General of 22 July 1930 to create posts for Assistant-Inspectors in those parts of the Union where a Labour Inspectorate has been instituted.

Decree of 30 January 1929 to set up in French Indo-China a special jurisdiction for dealing with breaches of contracts of employment.

Order of 28 August 1931 to create a post of Supervisor of Labour at the Labour Inspectorate.

Decree of 24 January 1933 authorising officers of the Labour Inspectorate to represent workers recruited under contract in judicial proceedings.

(5) *Javanese workers:*

Order of the Governor-General of 8 March 1910 regulating the employment of foreign labour in agricultural or mining undertakings, amended by the Order of 20 May 1913.

(6) *Immigration:*

Order of 7 April 1904 concerning immigration.

Decree of 30 June 1929 concerning the immigration of foreign labour in Indo-China.

(7) *Emigration:*

Decree of 24 February 1920 concerning the emigration of Indo-Chinese workers into the French Establishments in Oceania.

Order of the Governor-General of 25 October 1927 respecting the emigration of Tonkinese workers, amended and supplemented by the Orders of 29 August 1928, and 30 August 1928, and the Circulars of 30 November 1927 and 10 February 1928 (*L.S.*, 1927, Fr. 16). (See also under *Health and safety*.)

Madagascar

Decree of 22 September 1925 to regulate Native labour in the Colony of Madagascar and dependencies thereof (*L.S.*, 1925, Fr. 11), amended by the Decrees of 3 November 1928 and 7 January 1929.

Orders and Circular of 30 December 1925 in application of the Decree of 22 September 1925.

Decree of 10 February 1927 applying the Decree of 22 September 1925 to Malagasy workers employed on the island of La Réunion.

Supplementary texts:

(1) *Contracts of employment:*

Circular of 15 February 1928 concerning the registration of contracts of employment.

Circular of 15 April 1928 concerning the attestation of contracts of employment.

Circular of 22 November 1928 concerning desertion.

(2) *Arbitration councils:*

Orders of 8 April 1926 and 11 July 1928.

(3) *Employment offices:*

Decision of 17 December 1927 relating to the institution of 36 regional employment offices.

Decision of 29 October 1928.

Decision of 16 August 1930 revoking the decision of 17 December 1927 and instituting 39 regional employment offices.

(4) *Movements of Native workers:*

Order of 28 July 1931 to regulate the movements of Native workers elsewhere than in their divisions of origin, as amended by the Order of 24 November 1931.

(5) *Indirect compulsion:*

Decree of 28 August 1921 concerning vagrancy.

Circular of 5 September 1928 concerning vagrancy.

Circular of 22 November 1928 concerning desertion.

Decree of 2 June 1932 concerning the embezzlement or squandering of advances on wages, of bonuses on engagement or of travelling expenses, etc.

(6) *Emigration:*

Decree of 6 May 1903.

Order of 10 October 1930.

(7) *Immigration:*

Order of 15 June 1903.

INDIA

Indian Emigration Act, 1922 (*L.S.*, 1922, Ind. 2), amended by Nos. 27 of 1927 (*L.S.*, 1927, Ind. 1) and 16 of 1932 (*L.S.*, 1932, Ind. 1).

Notification No. 136-Emi of 1923, under Section 10 of the Indian Emigration Act, 1922, relating to emigration to Ceylon. Dated 17 February 1923.

Notification No. 137-Emi of 1923, under Section 10 of the Indian Emigration Act, 1922, relating to emigration to Malaya. Dated 17 February 1923.

Indian Emigration Rules, 1923.

Notification No. 213-Emi of 1923, relating to the application of the Indian Emigration Rules, 1923, with certain exceptions and modifications, to emigration to Malaya and Ceylon. Dated 10 March 1923.

Tea Districts Emigrant Labour Act, 1932 (No. XXII of 1932) (*L.S.*, 1932, Ind. 4).

Tea Districts Emigrant Labour Rules, 1933.

ITALIAN COLONIES

Eritrea

Decree No. 2631 of the Governor of 1 September 1916 concerning contracts of employment in the Colony of Eritrea.

Decree No. 5110 of the Governor of 23 November 1930 concerning the institution at the shipping-master's offices (*capitaneria*) at Massawah of an employment office for Class I Native seamen.

Somaliland

Decree No. 7475 of the Governor of 10 May 1929, to institute for the district of Genale a standard labour contract for resident Native labour and for land settlement.

Decree No. 8220 of the Governor of 31 July 1930 concerning the regulation of Native labour and the approval of wage rates in Italian Somaliland.

LIBERIA

Act of 15 December 1930 relating to contract labour recruited for service overseas.

NETHERLANDS COLONIES

*Netherlands Indies*¹

Ordinance of 9 January 1887 to prohibit the recruiting of Natives for employment without the Netherlands Indies (*S.N.I.*, 1887, No. 8).

Ordinance of 16 April 1896 concerning the emigration of Natives from the Netherlands Indies to Dutch Guiana (*S.N.I.*, 1896, No. 72).

Decree No. 10 of the Governor-General of 16 April 1896 to provide for the coming into force of the above Ordinance (*S.N.I.*, 1896, No. 73).

Ordinance of 16 August 1899 concerning the recruiting of Natives for employment abroad in performances representing popular life (*S.N.I.*, 1899, No. 235).

Ordinance of 14 September 1914 concerning the recruiting of Native workers in Java and Madura (*S.N.I.*, 1914, No. 613).

Decree No. 48 of the Governor-General of 14 September 1914 to provide for the coming into force of the above Ordinance (*Bijblad*, No. 8112).

Ordinance of 14 September 1914 concerning the recruiting of Native labour in Java and Madura for employment abroad, except in Dutch Guiana (*S.N.I.*, 1914, No. 615).

Ordinance of 4 December 1915 prescribing the conditions under which employers may be authorised to recruit Native labour in Java and Madura for employment in the Outer Provinces (*S.N.I.*, 1915, No. 693).

Decree No. 18 of the Governor-General of 4 December 1915 to provide for the coming into force of the above Ordinance (*Bijblad*, No. 8409).

Ordinance of 11 May 1927 to issue regulations for Chinese workers in the Banka tin mines (*S.N.I.*, 1927, No. 218).

Ordinance of 25 February 1931: Coolie Ordinance of 1931 (*L.S.*, 1931, D.E.I. 1).

Order No. E 68/1/3 of the Chief of the Labour Office at Batavia of 27 July 1931 prescribing the conditions under which the V.E.D.A., Employers' Association, may be authorised to recruit through worker recruiters.

Ordinance of 25 April 1932 to issue regulations for Chinese workers in the tin mines of Billiton (*S.N.I.*, 1932, No. 183).

¹ *S.N.I.* = *Staatsblad van Nederlandsch-Indië*.

Dutch Guiana (Surinam) ¹

Royal Decree, No. 27, of 22 March 1872 concerning immigration (*G.B.*, 1872, No. 8).

Ordinance of 9 October 1890 concerning immigrants permanently settled on the plantations on the expiration of their contracts of employment (*G.B.*, 1890, No. 35).

Ordinance of 20 August 1895 for the application of the above Ordinance to immigrants from the Netherlands Indies on the expiration of their contracts of employment (*G.B.*, 1895, No. 48).

PORTUGUESE COLONIES ²

Decree No. 16,199 to approve the Native Labour Code for the Portuguese colonies in Africa (*L.S.*, 1928, Por. 3).

Angola

Legislative Decree No. 72 of 26 January 1929 (*B.A.* p. 51) to provide for the coming into force of the Native Labour Code.

Legislative Decree No. 73 of 26 January 1929 to repeal certain provisions as from the date of coming into force of the Native Labour Code (*B.A.* p. 58).

Mozambique

Order No. 1180 of 4 September 1930 to approve the Regulations governing the employment of Native labour in the Colony of Mozambique (*B.M.*, No. 20).

Territory of the Company of Mozambique

Ordinance No. 1019 of 21 December 1929 concerning the recruiting of Natives (*B.C.M.*, 1930, No. 2).

Ordinance No. 6216 of 16 October 1930 to adopt and declare in force in the Territory the Regulations for the employment of Natives in the Colony of Mozambique (*B.C.M.*, No. 20).

Territory of the Company of Nyasa

Decree No. 3145 of 30 April 1929 to fix the date for the coming into force of Decree No. 16,199 (*B.C.N.*, No. 372).

Decree No. 3146 of 30 April 1929 to define the powers assigned to the bodies exercising the functions allotted by the Native Labour Code (*B.C.N.*, No. 372).

¹ *G.B.* = *Gouvernementsblad*.

² *B.A.* = *Boletim Oficial da Colônia de Angola*, I série.

B.G. = *Boletim Oficial da Guiné*.

B.M. = *Boletim Oficial da Colônia de Moçambique*.

B.C.M. = *Boletim Oficial do Governo do Território da Companhia de Moçambique*.

B.C.N. = *Boletim da Companhia do Niassa*.

B.S.T. = *Boletim Oficial do Governo da Colônia de San Tomé et Príncipe*.

Portuguese Guinea

Order No. 98 of 24 December 1929 to establish which of the Decrees promulgated in the Colony with respect to the employment of Natives shall continue in force (*B.G.*, No. 49).

San Tomé and Príncipe

Local Regulations of 17 March 1930 for the administration of the Native Labour Code (*B.S.T.*, No. 14).

SPANISH GUINEA ¹

Provisional Regulations for Native labour in the Spanish territories on the Gulf of Guinea, approved by Royal Order of 6 August 1906.

Decree of the Governor-General of Spanish Guinea of 21 June 1927 concerning recruiting by the Official Chamber of Agriculture of Fernando Po.

Decree of the Governor-General of Spanish Guinea of 25 September 1928 respecting the conditions for the engagement and employment of Chinese workers in agricultural undertakings on the Island (of Fernando Po) (*B.O.*, No. XIX, p. 159).

Decree of the Governor-General of Spanish Guinea of 23 September 1929 to authorise the conclusion of contracts of employment with Bubis (Natives of Fernando Po) during the harvest season (*B.O.*, No. XIX, p. 148).

Royal Order of 15 June 1930 concerning the recruiting of Nigerian and Angola Natives.

Instructions of 29 March 1933 of the Chief of Endemic Diseases Mission in the Colony relating to sleeping-sickness.

Regulations of 5 October 1933 concerning the campaign against leprosy.

UNION OF SOUTH AFRICA ²

Native Labour Regulation Act, 1911.

Government Notices Nos. 1988 of 1911, 1793 of 1912, 1673 of 1913, 1045 of 1914, 31 of 1918, 753 of 1920, 166 of 1922, 314 of 1923, 11 of 1924, 273 of 1924, 718 of 1924, 2091 of 1924, 917 of 1925, 1100 of 1925, 1368 of 1925, 59 of 1929, 1958 of 1930 and 8 of 1931 under the Native Labour Regulation Act, 1911.

Native Advances Act, 1921.

Proclamations Nos. 175 of 1921, 231 of 1923, 77 of 1924 and 58 of 1929 under the Native Advances Act, 1921.

¹ *B.O.* = *Boletín Oficial de los Territorios Españoles del Golfo de Guinea*.

² The Acts are published in the *Statutes of the Union of South Africa*, and the Notices, etc. in the *Regulations of the Union of South Africa*.

